

Highly Confidential - Subject to Further Confidentiality Review

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

-----x
IN RE: NATIONAL PRESCRIPTION) Case No.
OPIATE LITIGATION) 1:17-MD-2804
APPLIES TO ALL CASES) Hon. Dan A. Polster
-----x

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW
VIDEOTAPED DEPOSITION OF LARRY W. ROMAINE
CHARLOTTESVILLE, VIRGINIA

THURSDAY, JANUARY 10, 2019

9:06 A.M.

Pages: 1 - 531

Reported by: Leslie A. Todd

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<p style="text-align: center;">Page 2</p> <p>1 Deposition of LARRY W. ROMAINE, held in the 2 conference room at: 3 4 5 OMNI HOTEL 6 212 Ridge McIntire Road 7 Charlottesville, Virginia 22903 8 9 10 11 12 Pursuant to notice, before Leslie Anne Todd, 13 Court Reporter and Notary Public in and for the 14 Commonwealth of Virginia, who officiated in 15 administering the oath to the witness. 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: center;">Page 4</p> <p>1 APPEARANCES (Continued): 2 3 SANDRA DI LORIO, ESQUIRE 4 ENDO 5 1400 Atwater Drive 6 Malvern, Pennsylvania 19355 7 (4840) 574-2921 8 9 ON BEHALF OF WALMART: 10 CHRISTOPHER LOMAX, ESQUIRE 11 JONES DAY 12 600 Brickell Avenue 13 Suite 3300 14 Miami, Florida 33131 15 (305) 714-9700 16 17 ON BEHALF OF PERNIX THERAPEUTICS HOLDINGS, INC.: 18 BRUCE CLARK, ESQUIRE (Telephonically) 19 CLARK MICHIE, LLP 20 220 Alexander Street 21 Princeton, New Jersey 08540 22 (609) 206-1104 23 24</p>
<p style="text-align: center;">Page 3</p> <p>1 APPEARANCES 2 ON BEHALF OF THE PLAINTIFFS: 3 JENNIFER SCULLION, ESQUIRE 4 ERICA KUBLY, ESQUIRE 5 SEEGER WEISS, LLP 6 77 Water Street, 8th Floor 7 New York, New York 10005 8 (212) 584-0780 9 10 ON BEHALF OF THE TENNESSEE PLAINTIFFS: 11 JOE P. LENISKI, JR., ESQUIRE 12 BRANSTETTER, STRANCH & JENNINGS, PLLC 13 223 Rosa L. Parks Avenue, Suite 200 14 Nashville, Tennessee 37203 15 (615) 254-8801 16 17 ON BEHALF OF ENDO PHARMACEUTICALS AND THE WITNESS: 18 SEAN MORRIS, ESQUIRE 19 NEDA HAJIAN, ESQUIRE (Telephonically) 20 ARNOLD & PORTER KAYE SCHOLER, LLP 21 777 South Figueroa Street 22 44th Floor 23 Los Angeles, California 90017-5844 24 (213) 243-4222</p>	<p style="text-align: center;">Page 5</p> <p>1 APPEARANCES (Continued): 2 3 ON BEHALF OF AMERISOURCEBERGEN: 4 MARY BALASTER, ESQUIRE (Telephonically) 5 REED SMITH, LLP 6 811 Main Street, Suite 1700 7 Houston, Texas 77002-6110 8 (713) 469-3800 9 10 11 ALSO PRESENT: 12 SABRINA TYJER (Paralegal - Seeger Weiss) 13 DANIEL HOLMSTOCK (Videographer) 14 RICK CHRISTIAN (Trial Technician) 15 16 17 18 19 20 21 22 23 24</p>

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Golkow Litigation Services - 877.370.DEPS

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<p style="text-align: center;">Page 18</p> <p>1 Q Okay. Have you testified in any other 2 depositions?</p> <p>3 A No.</p> <p>4 Q Have you ever testified in court?</p> <p>5 A No.</p> <p>6 Q All right. Have you ever submitted any 7 sworn testimony?</p> <p>8 A No.</p> <p>9 Q Were you -- did you testify before the 10 New York Attorney General --</p> <p>11 A No, I did not.</p> <p>12 Q -- ever? Okay. Okay. Great. 13 Well, so you've been through one 14 deposition, and I'm sure counsel has explained to 15 you some of the -- the rules and guidances, but 16 let me just go over some that I think are really 17 helpful.</p> <p>18 First is I'm going to be asking 19 questions and asking you to answer those 20 questions. If you don't understand my questions, 21 would you please let me know?</p> <p>22 A Okay.</p> <p>23 Q Thank you. Otherwise, I'm going to 24 assume that you understood it.</p>	<p style="text-align: center;">Page 20</p> <p>1 time to time. If you need a break, please let me 2 know, and we'll try to do that. The only thing is 3 I would ask that we can't take a break during a 4 question. So if I ask you a question and it 5 hasn't been answered, we can't take a break. 6 Okay?</p> <p>7 A Okay.</p> <p>8 Q Okay, great. Is there any reason that 9 you can't give your best testimony today?</p> <p>10 A No.</p> <p>11 Q No medication that impairs your -- your 12 cognitive abilities?</p> <p>13 A No.</p> <p>14 Q Okay. Fantastic. 15 Are you represented by counsel today?</p> <p>16 A I am.</p> <p>17 Q And who is that?</p> <p>18 A Arnold & Porter.</p> <p>19 Q Did you do anything to prepare for 20 today's deposition?</p> <p>21 A Yes.</p> <p>22 Q What did you do?</p> <p>23 A I met with Arnold & Porter and the Endo 24 attorney on Tuesday afternoon and then yesterday,</p>
<p style="text-align: center;">Page 19</p> <p>1 There may be objections from time to 2 time, but unless you're instructed not to answer 3 on the ground of privilege and you choose to 4 follow that instruction, you will need to answer 5 the questions.</p> <p>6 Do you understand that?</p> <p>7 A Yes.</p> <p>8 Q Okay. I'm going to try not to speak 9 over your answers, and I'd ask that you not try to 10 speak over my questions.</p> <p>11 A Okay.</p> <p>12 Q It can get a little difficult. The 13 reason for that is Leslie, our court reporter, 14 will have difficulty taking everything down if 15 we're talking over each other.</p> <p>16 A Okay.</p> <p>17 Q Thank you. We're also going to need to 18 make sure that you give verbal answers, so you 19 can't just nod your head or say "uh-huh" or 20 "uh-uh." It's got to be actual words so, again, 21 that Leslie can record those.</p> <p>22 A Okay.</p> <p>23 Q Thank you. 24 We're going to be taking breaks from</p>	<p style="text-align: center;">Page 21</p> <p>1 which was Wednesday.</p> <p>2 Q Did you meet with anyone at any other 3 time to prepare for today's deposition?</p> <p>4 A No, I did not.</p> <p>5 Q Did you speak with anybody on the phone 6 to prepare for the deposition?</p> <p>7 A I spoke with Joanna about the logistics 8 of this prior to coming here.</p> <p>9 Q Okay. Did you speak with anyone else 10 about -- in preparation for the deposition?</p> <p>11 A No, I did not.</p> <p>12 Q Okay. Did you -- did you review any 13 documents to prepare for the deposition?</p> <p>14 A I did.</p> <p>15 Q And what did you review?</p> <p>16 MR. MORRIS: I'm going to object and 17 instruct the witness not to answer. If you want 18 to ask about a specific document, that's fine, but 19 he's not going to give you a list of documents 20 that he reviewed.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q Let me ask you this: Did you review any 23 documents other than in the presence of counsel to 24 prepare for the deposition?</p>

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Page 22	Page 24
<p>1 A I did not.</p> <p>2 Q Did you go, for example, and look at any</p> <p>3 former e-mails or calendars, any journals,</p> <p>4 diaries, notes, anything of that sort?</p> <p>5 A I did not.</p> <p>6 Q Okay. When you reviewed documents with</p> <p>7 counsel, did any of those refresh your</p> <p>8 recollection about events from your employment at</p> <p>9 Endo?</p> <p>10 A Yes.</p> <p>11 Q Do you recall what events you had your</p> <p>12 recollection refreshed on?</p> <p>13 A I do.</p> <p>14 Q What were those?</p> <p>15 A The risk map and the director removal</p> <p>16 process.</p> <p>17 Q The director removal process?</p> <p>18 A Mm-hmm, to remove physicians from the</p> <p>19 call plan.</p> <p>20 Q Okay. The -- the risk map, was that the</p> <p>21 risk map for Opana ER?</p> <p>22 A Correct.</p> <p>23 Q Was that a document you had been</p> <p>24 familiar with when you were employed by Endo?</p>	<p>1 Q Anything you asked for?</p> <p>2 A No.</p> <p>3 Q Okay. All right. Putting aside</p> <p>4 preparation for the deposition, did you discuss</p> <p>5 today's deposition with anyone other than your</p> <p>6 counsel?</p> <p>7 A Just one other person.</p> <p>8 Q And who is that?</p> <p>9 A My wife.</p> <p>10 Q And what did you discuss with her about</p> <p>11 it?</p> <p>12 A That I was coming to the deposition and</p> <p>13 would be giving a deposition for the next three</p> <p>14 days.</p> <p>15 Q Okay. Did you have any communication</p> <p>16 with any former Endo colleagues about today's</p> <p>17 deposition?</p> <p>18 A I did not.</p> <p>19 Q Have you had any communication with any</p> <p>20 former Endo colleagues about this litigation, and</p> <p>21 that is the In Re: National Prescription Opiates</p> <p>22 MDL?</p> <p>23 A I have not.</p> <p>24 Q Okay. How did -- how did you come to be</p>
<p>1 A I was familiar with it at one time, but,</p> <p>2 obviously, over time I -- I had forgotten about</p> <p>3 it.</p> <p>4 Q Hadn't committed that to memory?</p> <p>5 A No.</p> <p>6 Q And the -- you said the director removal</p> <p>7 process. Is that the -- a prescriber removal</p> <p>8 process?</p> <p>9 A Correct.</p> <p>10 Q Okay. And that's a process to remove</p> <p>11 prescribers from a -- from call plans?</p> <p>12 A That's correct.</p> <p>13 Q Okay. And was that something you were</p> <p>14 familiar with when you were employed with Endo?</p> <p>15 A I was familiar with it.</p> <p>16 Q Okay. Any other topics on which your</p> <p>17 recollection was refreshed by reviewing documents</p> <p>18 for the deposition?</p> <p>19 A We reviewed a lot of documents, but</p> <p>20 nothing that stands out.</p> <p>21 Q Okay. Was there anything that you</p> <p>22 wanted to see that you weren't able to see to take</p> <p>23 a look at?</p> <p>24 A No, not that I remember.</p>	<p>1 familiar with this litigation? How did you come</p> <p>2 to know about it?</p> <p>3 A I was contacted by Joanna.</p> <p>4 Q Had you heard about the case before</p> <p>5 that?</p> <p>6 A No.</p> <p>7 Q Do you recall approximately when</p> <p>8 Ms. Percio -- when Ms. Percio contacted you?</p> <p>9 A Actually, I take that back. It was</p> <p>10 Jobina, and I don't know her last name, at Endo</p> <p>11 that contacted me first.</p> <p>12 Q Okay. And I apologize, I don't remember</p> <p>13 Jobina's last name.</p> <p>14 A I don't either.</p> <p>15 MR. MORRIS: Jones --</p> <p>16 MS. SCULLION: Jones?</p> <p>17 MR. MORRIS: Jones-McDonnell.</p> <p>18 MS. SCULLION: Jones-McDonnell. Thank</p> <p>19 you.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Do you recall approximately when</p> <p>22 Ms. Jones-McDonnell contacted you?</p> <p>23 A It was either late June or early July</p> <p>24 of -- of last year.</p>

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<p>1 MR. MORRIS: And I'll just jump in. 2 Obviously these kinds of questions are fine, and 3 I'm sure that Ms. Scullion is not going to ask 4 you, but don't reveal the content of any 5 discussions that you had with counsel. 6 THE WITNESS: Okay. 7 (Romaine Exhibit No. 1 was marked 8 for identification.) 9 BY MS. SCULLION: 10 Q Okay. Let's show you what's been marked 11 as Exhibit No. 1. 12 And this is the Amended Notice of 13 Deposition of Larry Romaine. Mr. Romaine, have 14 you seen Exhibit 1 before? 15 A I have not. 16 Q So Exhibit 1 is the amended notice of 17 your deposition here today. 18 A Okay. 19 Q And in the second paragraph at the end, 20 we've indicated that you were to bring a copy of 21 your most recent curriculum vitae or similar 22 summary of education and work history. 23 Did you bring such a document with you 24 today?</p>	<p>1 is a CV or a resume? 2 A I probably have a hard copy somewhere in 3 my home. 4 Q Okay. 5 MS. SCULLION: Counsel, we -- we have 6 asked for these documents to be produced to 7 release in the deposition. I'm not sure why that 8 hasn't happened, but we would like to get a copy 9 of his -- of his CV as we've asked for. 10 MR. MORRIS: Okay. Well, we'll take 11 that under submission, and you can ask him 12 obviously his employment history. 13 MS. SCULLION: More quickly, let me have 14 that. 15 MS. SCULLION: Let's give -- number 3. 16 (Romaine Exhibit No. 3 was marked 17 for identification.) 18 BY MS. SCULLION: 19 Q I'm going slightly out of order on the 20 exhibits, so just bear with me. 21 I'm going to hand you what's marked as 22 Exhibit No. 3. 23 A Do you want this one back? 24 Q No, you should keep all the exhibits as</p>
<p style="text-align: center;">Page 27</p> <p>1 A I did not. 2 Q Were you asked -- 3 THE VIDEOGRAPHER: We never set up the 4 speakerphone. 5 (A discussion was held off the record.) 6 MS. SCULLION: So for the record, we 7 just got notice that the speakerphone was not set 8 up for the dial-in. So we're going to take a 9 quick break, get that set up, and we'll continue. 10 THE VIDEOGRAPHER: The time is 9:16 a.m. 11 We're going off the record. 12 (Pause.) 13 THE VIDEOGRAPHER: The time is 9:19 a.m. 14 We're back on the record. 15 BY MS. SCULLION: 16 Q So we're back on. 17 Mr. Romaine, do you have a -- a CV or a 18 resume that you keep? 19 A I -- I don't. 20 Q Okay. Do you have any summary of 21 your -- of your work history that you maintain? 22 A I don't have anything with me. 23 Q I'm sorry. I meant, do you -- just at 24 home or on a computer, is that something you keep</p>	<p style="text-align: center;">Page 29</p> <p>1 they're handed to you. 2 A Okay. 3 Q You can put them aside if you like, but 4 we'll be coming back to exhibits, so just so you 5 know. 6 So Exhibit No. 3 is the Separation 7 Agreement and General Release entered into between 8 Larry Romaine and Endo Pharmaceuticals, Inc. 9 And if you turn to the very last -- 10 sorry, second to last page of the exhibit, it is 11 signed by, it looks like, Mr. Romaine on 12 September 1st, 2013. And this was provided to us 13 today by counsel for Endo. 14 Mr. Romaine, do you recognize Exhibit 3? 15 A I do. 16 Q And what is it? 17 A It was my separation agreement from 18 Endo. 19 Q Okay. And on the page 7 of the 20 agreement, that is your signature? 21 A Yes. 22 Q Okay. And if you will look at 23 paragraph 7 on the same page, it's labeled 24 "Cooperation."</p>

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<p>1 A Mm-hmm.</p> <p>2 Q Are you here today testifying pursuant 3 to this Cooperation provision in this agreement?</p> <p>4 A I'm just reading through Section 7.</p> <p>5 Q Sure.</p> <p>6 A (Peruses document.)</p> <p>7 MR. MORRIS: Objection to form.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q Are you here today pursuant to that 10 provision?</p> <p>11 A I'm here today because I was asked to -- 12 to come.</p> <p>13 Q Okay. Have you provided any cooperation 14 to Endo in connection with any opioids litigation 15 aside from this deposition?</p> <p>16 A I have not.</p> <p>17 Q Okay. Have you been asked to?</p> <p>18 A I have not.</p> <p>19 Q Okay. All right. Let's put Exhibit 3 20 aside.</p> <p>21 (Romaine Exhibit No. 2 was marked 22 for identification.)</p> <p>23 BY MS. SCULLION:</p> <p>24 Q And I'm going to hand you what's been</p>	<p>1 Q All right. When you were with Endo, 2 your principal responsibility was -- was in 3 connection with sales, correct?</p> <p>4 A Correct.</p> <p>5 Q All right. And from time to time there 6 were pieces of promotional materials that were 7 used in sales, correct?</p> <p>8 A Correct.</p> <p>9 Q So it might be, for example, a master 10 visual aid, slim jim, some piece of premium like a 11 lanyard or a pen or anything. Do you have in your 12 possession at home any such promotional materials 13 with respect to Endo?</p> <p>14 A I do not.</p> <p>15 Q Okay. Sometimes people keep these 16 things.</p> <p>17 A It's been a while since I left.</p> <p>18 Q Okay. So let's go through your 19 employment history just really very quickly.</p> <p>20 A Okay.</p> <p>21 Q To remind me, when did you graduate from 22 college?</p> <p>23 A 1980.</p> <p>24 Q Okay. And what was your degree?</p>
<p>1 marked as Exhibit No. 2.</p> <p>2 A Thank you.</p> <p>3 Q Sure. And Exhibit No. 2 is a copy of 4 the subpoena to testify at deposition in a civil 5 action dated December 31st, 2018, directed to 6 Mr. Romaine in care of Arnold & Porter.</p> <p>7 And, Mr. Romaine, have you seen 8 Exhibit No. 2 before?</p> <p>9 A I have not.</p> <p>10 Q Okay. Were you aware that a subpoena 11 had been served calling for your testimony as well 12 as documents?</p> <p>13 A I was aware that when I talked to 14 Jobina that I was being subpoenaed to be -- to do 15 a deposition.</p> <p>16 Q Were you aware you were also being 17 subpoenaed to produce documents in connection with 18 the deposition?</p> <p>19 A I was requested to bring any documents 20 that I had in my possession.</p> <p>21 Q Okay. Did you search for documents?</p> <p>22 A I did.</p> <p>23 Q Okay. And did you find any?</p> <p>24 A I did not.</p>	<p>1 A Bachelor in business administration.</p> <p>2 Q Okay. And that was from James Madison?</p> <p>3 A Correct.</p> <p>4 Q Okay. And did you then go to work for 5 Bristol-Myers Squibb?</p> <p>6 A I actually worked for a year and a half 7 for my father.</p> <p>8 Q Okay. And what were you doing for him?</p> <p>9 A He owned a glass company, so I worked 10 with him.</p> <p>11 Q Okay, fantastic. And then you worked 12 for Bristol-Myers Squibb?</p> <p>13 A Correct. It was Bristol-Myers at the 14 time, and then after the merger, Bristol-Myers 15 Squibb.</p> <p>16 Q Got it. And that was as marketing 17 director?</p> <p>18 A Well, I started as a sales 19 representative and went through many different 20 roles within the company, but I eventually became 21 a marketing director.</p> <p>22 Q Can you just give me a brief overview of 23 the roles that you had.</p> <p>24 A I was a sales representative, and then a</p>

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<p style="text-align: center;">Page 34</p> <p>1 hospital representative, and then I was a home 2 office trainer, and then a district manager, and 3 then a manager of promotion in the home office. 4 And then I was a product manager, and then a 5 director of one of the divisions. In marketing. 6 Q Did you sell or promote any opioids? 7 A No. 8 Q When you were product manager, what 9 products did you manage? 10 A It was a product called Duricef, which 11 was an antibiotic. 12 Q All right. And you said you were -- 13 ended as a director of a division within 14 marketing. Which division? 15 A The anti-infective division. 16 Q All right. As a home office trainer, 17 what were you providing training on? 18 A All the promoted products for the 19 division that I supported, which was the 20 anti-infective division. 21 Q Were you training on sales techniques, 22 disease state, all of the above? 23 A Product knowledge and sales skills. 24 Q Okay. Thank you.</p>	<p style="text-align: center;">Page 36</p> <p>1 employed from approximately April 1981 to about 2 May 1996; is that right? 3 A Yes. 4 Q Okay. You joined -- is it Eisai? 5 A Eisai. 6 Q Thank you. Eisai. Whew. All right. 7 You joined Eisai in around June 1996? 8 A Yes. 9 Q And you said as field sales director, 10 correct? 11 A I was -- started as a regional director 12 and -- 13 Q Thank you. 14 A -- then became a fields sales director. 15 Q And did you stay with Eisai till May 16 2003? 17 A Correct. 18 Q Did you sell -- sell or promote any 19 opioid products there? 20 A No. 21 Q Any controlled substances? 22 A No. 23 Q What kind of products were you selling 24 and promoting with Eisai?</p>
<p style="text-align: center;">Page 35</p> <p>1 Did you provide training on the legal or 2 regulatory constraints on sale and promotion of 3 pharmaceuticals? 4 A I did not, but we had a department that 5 did that. 6 Q Okay. And as a sales rep, you were out 7 calling on physicians? 8 A Correct. 9 Q What territory were you in, what area? 10 A Richmond, Virginia. 11 Q How long did you do that for? 12 A About a year. 13 Q Okay. And why did you leave 14 Bristol-Myers? 15 A I got an offer from another 16 pharmaceutical company. 17 Q And that was ESI? 18 A Correct. 19 Q And were you a field sales director 20 there? 21 A I was a regional director there. 22 Q Let me make sure I got the dates -- we 23 have some dates, let me make sure they're right. 24 My understanding is Bristol-Myers, you were</p>	<p style="text-align: center;">Page 37</p> <p>1 A We had a product for Alzheimer's 2 disease, and we had a product for GERD, the 3 stomach. 4 Q Okay. And then am I correct you joined 5 Endo in June 2003? 6 A Correct. 7 Q And what was your title when you joined 8 Endo? 9 A Director of specialty sales. 10 Q Let's make sure I have then the whole 11 sequence. 12 Did you -- were you promoted from 13 director of specialty sales directly to VP of 14 sales? 15 A Correct. 16 Q When were you promoted? 17 A June of 2007. 18 Q Were you the immediate successor to Ron 19 Wickline? 20 A Yes. 21 Q Thank you. And you stayed on as VP of 22 sales through September of 2013; is that right? 23 A Correct. 24 Q Okay. Who hired you at Endo?</p>

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<p style="text-align: center;">Page 38</p> <p>1 A Ron Wickline. 2 Q Did you know Mr. Wickline before? 3 A I did not. 4 Q When you were hired as director of 5 specialty sales, Mr. Wickline was then VP of 6 sales, correct? 7 A Correct. 8 Q So you reported to him. 9 A Yes. 10 Q And do you know who he reported to, by 11 title? 12 A I believe at the time it was Peter 13 Lankau, who was the, I think, executive 14 vice president of sales and marketing. 15 Q Okay. All right. And you said you were 16 director of specialty sales. What was specialty 17 sales? 18 A Specialty sales was the division that 19 called on specialists. 20 Q As opposed to primary care physicians? 21 A Primary -- correct. 22 Q Were there particular specialties that 23 Endo's sales force was calling on at that time 24 when you joined?</p>	<p style="text-align: center;">Page 40</p> <p>1 A [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 MR. MORRIS: Objection to form. 6 BY MS. SCULLION: 7 Q If you know. 8 A Loss of patent protection, loss of 9 revenue. 10 Q You say loss of patent protection. Loss 11 of patent protection on a particular product? 12 A It was several products. 13 Q On which products? 14 A I believe Opana ER as well as Voltaren 15 Gel. 16 Q So if I understand correctly, up until 17 that time Endo had been promoting both of those as 18 branded products, and then when the patent 19 protection was lost, there was a decline in 20 revenue in those products and that resulted [REDACTED] 21 [REDACTED] 22 MR. MORRIS: Objection to form. 23 BY MS. SCULLION: 24 Q Is that correct?</p>
<p style="text-align: center;">Page 39</p> <p>1 A I know physical medicine and rehab 2 was -- was one of the specialties. Pain 3 management physicians were another specialty. And 4 I don't recall others after that. 5 Q Okay. And we'll get into some more 6 detail of that, but when you then became 7 vice president of sales, I take it you then had 8 responsibility for both the specialty and the -- 9 is it called pharma -- 10 A Yes. 11 Q -- side of the sales? 12 A Correct. 13 Q And pharma would have been handling the 14 primary care physicians, correct? 15 A Correct. 16 Q All right. When you were promoted in 17 June of 2007, who gave you that promotion? 18 A David -- I reported to David Kerr at 19 that time. 20 Q And he was senior vice president for 21 commercial? 22 A Commercial, mm-hmm. 23 Q Okay. And why did you leave Endo in 24 September 2013?</p>	<p style="text-align: center;">Page 41</p> <p>1 A Correct. 2 Q Okay. Thanks. 3 [REDACTED] 4 [REDACTED] 5 A I did. 6 Q And health -- sorry. Thank you. 7 And that was September 2013? 8 A Yes. 9 Q And did you stay with inVentiv until May 10 2014? 11 A No, I stayed with them until September 12 of 2018. They actually merged -- 13 Q To Syneos? 14 A Yes. 15 Q Yeah. Thank you. 16 Okay. What was your title -- when you 17 first joined inVentiv Health, were you VP of sales 18 and sales support? 19 A Yes. 20 Q Okay. Did you then become senior vice 21 president of sales? 22 A Yes. 23 Q And that was in June 2014? 24 A Yes.</p>

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<p style="text-align: center;">Page 42</p> <p>1 Q Okay. And you said you stayed with -- 2 and that was when it became Syneos in 2014; is 3 that right?</p> <p>4 A I actually -- I think it was later than 5 that. I don't know the specific date.</p> <p>6 Q But at some point in Ventiv became 7 Syneos.</p> <p>8 A Syneos.</p> <p>9 Q All right. And you stayed with then 10 Syneos through September 2018?</p> <p>11 A Correct.</p> <p>12 Q [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 Q Okay. And have you been employed since</p>	<p style="text-align: center;">Page 44</p> <p>1 Q And that was just in the work context? 2 A Mm-hmm. 3 Q I apologize, we're going to need to say 4 "yes" and "no."</p> <p>5 A Yes. Yes.</p> <p>6 Q It's not easy to remember.</p> <p>7 MR. MORRIS: You've been doing great so 8 far, but good -- good reminder.</p> <p>9 MS. SCULLION: Yeah.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q Linda Kitlinski?</p> <p>12 A No.</p> <p>13 Q Okay. Neil Shusterman?</p> <p>14 A No.</p> <p>15 Q Okay. Brian Lortie?</p> <p>16 A No.</p> <p>17 Q Okay.</p> <p>18 A I -- I have seen Brian Lortie since -- 19 actually, in a restaurant one time, but I have not 20 kept in contact with him.</p> <p>21 Q Have you kept in contact with any sales 22 reps from Endo?</p> <p>23 A None that I can recall.</p> <p>24 Q And just to make sure, with Mr. Jackson,</p>
<p style="text-align: center;">Page 43</p> <p>1 leaving Syneos?</p> <p>2 A I have not.</p> <p>3 Q Okay. Since you left Endo, have you 4 kept in touch with any of your former Endo 5 colleagues?</p> <p>6 A Several.</p> <p>7 Q Which ones?</p> <p>8 A Kevin O'Brien, Ron Jackson, and Janett 9 Mendez DeTore.</p> <p>10 Q Any others?</p> <p>11 A No, not really.</p> <p>12 Q Ron Wickline?</p> <p>13 A No.</p> <p>14 Q David Kerr?</p> <p>15 A No.</p> <p>16 Q Demir Bingol?</p> <p>17 A No.</p> <p>18 Q Kristin Vitanza?</p> <p>19 A No -- I actually saw Kristin. She 20 worked for a company that I did some work for when 21 I was at Syneos.</p> <p>22 Q Okay.</p> <p>23 A But I just saw her one time in a 24 meeting.</p>	<p style="text-align: center;">Page 45</p> <p>1 have you ever discussed this litigation with 2 Mr. Jackson?</p> <p>3 A No.</p> <p>4 Q Have you since leaving Endo discussed 5 with any of the folks you mentioned, Mr. O'Brien, 6 Mr. Jackson, Ms. DeTore -- or Mendez-DeTore, 7 Endo's sale or promotion of opioids?</p> <p>8 A No.</p> <p>9 MS. SCULLION: Let me get the 10 demonstrative. We're going to mark. 11 So we have two demonstratives we plan to 12 use today. I was thinking about marking those 13 separately than just regular exhibits as DX, or do 14 you have a preference?</p> <p>15 MR. MORRIS: Well, let's mark them -- I 16 think just mark them as exhibits.</p> <p>17 MS. SCULLION: Just mark them as 18 exhibits. All right. So this will be Exhibit 4. 19 Sorry about that. 20 (Romaine Exhibit No. 4 was marked 21 for identification.)</p> <p>22 BY MS. SCULLION:</p> <p>23 Q So, Mr. Romaine, I'm handing you what 24 has been marked as Exhibit No. 4, and this is just</p>

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<p>1 a timeline that we thought would be helpful for 2 orientation throughout the day about certain 3 events. 4 A Okay. 5 Q I'll present to you we have put at the 6 bottom of the -- of Exhibit 4 in footnotes 7 citations to documents from where we're getting 8 these dates for various events. If at any point 9 you believe any of these dates are actually wrong, 10 please let me know, but they really are just -- 11 just for orientation purposes today. 12 A Okay. 13 Q Because it has been I think some years, 14 and these -- this spans some years, and I think it 15 will be helpful. 16 MR. MORRIS: And I'll just insert an 17 objection noting that, you know, foundation. 18 Whether he knows whether dates are wrong, he may 19 not know any of that too. But you asked him to 20 note if the dates are wrong, he may not even know. 21 So... 22 BY MS. SCULLION: 23 Q I certainly only want you to speak today 24 on things you actually know.</p>	<p>1 Is that okay? 2 A Yes. 3 MR. MORRIS: And I'm going to object 4 on -- to form, legal conclusion, and lack of 5 foundation. He may or may not know the details of 6 any of those companies. 7 BY MS. SCULLION: 8 Q I'm just -- I'm just -- I'm not asking 9 you to sort of separate out Endo and any Endo 10 subsidiaries that may have come in while you were 11 employed with them. If they're under Endo, I'm 12 just calling it all Endo. 13 A Okay. 14 Q If you have any questions about that 15 along the way, if you want to be clear about 16 whether I'm talking about one entity or a 17 subsidiary, please let me know. 18 A Okay. 19 Q Okay. Thanks. 20 MR. MORRIS: I'll still object to form, 21 foundation, legal conclusion. 22 BY MS. SCULLION: 23 Q So, Mr. Romaine, just to make sure we're 24 all on the same page, do you recall Endo was</p>
<p style="text-align: center;">Page 47</p> <p>1 A Okay. 2 Q Before you get into the timeline, we've 3 been talking today about -- or I've been using the 4 term "Endo." I just want to be clear when I'm 5 using the term "Endo," I'm talking about both the 6 defendants in this action, which are Endo 7 Pharmaceuticals, Inc. -- I believe that was -- 8 that was your employer, correct? 9 A Correct. 10 Q Okay. That's on the separation 11 agreement we looked at. 12 -- as well as Endo Health Solutions, 13 Inc. I'm going to just call them both together 14 Endo. 15 And Endo Health Solutions, Inc., I 16 think, used to be called Endo Pharmaceuticals 17 Holdings, Inc., was the former name. That also is 18 included when I say "Endo." 19 A Okay. 20 Q And if -- if there were any companies 21 that were acquired, brought in as operating 22 companies, subsidiaries of Endo, those are 23 going -- those are included within the term "Endo" 24 when I use that.</p>	<p style="text-align: center;">Page 49</p> <p>1 founded in 1997; is that correct? 2 MR. MORRIS: Objection to form. 3 THE WITNESS: I think so. 4 BY MS. SCULLION: 5 Q Okay. Do you remember Carol Emon -- 6 Ammon and some others had acquired a portfolio of 7 products from DuPont Merck when they formed Endo? 8 A Yes. 9 Q Okay. And -- and those products 10 included Percocet, correct? 11 A Correct. 12 Q Those products also included something 13 called Numorphan, correct? 14 MR. MORRIS: Objection to form and 15 foundation. 16 THE WITNESS: I'm not familiar with 17 Numorphan. 18 BY MS. SCULLION: 19 Q Okay. But do you -- do you recall that 20 the Endo name itself though went back to like the 21 1920s and had quite a history? 22 MR. MORRIS: Objection. Form, 23 foundation, legal conclusion. 24 THE WITNESS: I wasn't -- I didn't have</p>

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<p style="text-align: right;">Page 50</p> <p>1 the knowledge of that. 2 BY MS. SCULLION: 3 Q Okay. Do you recall that Percocet 4 itself was introduced in 1976? 5 A I -- 6 MR. MORRIS: Objection. Form and 7 foundation. 8 THE WITNESS: I don't know the date of 9 that. 10 MS. SCULLION: Okay. Just one second. 11 (Counsel conferring.) 12 BY MS. SCULLION: 13 Q Percocet was a product that you sold 14 when you were with Endo? 15 A They were phasing it out as I was coming 16 in. 17 Q But it was sold while -- while you were 18 with Endo, correct? 19 A By our sales force. 20 Q Okay. And do you recall that's a 21 product that was oxycodone and APAP? 22 A Yes. 23 Q Okay. And oxycodone, that's a class 2 24 narcotic, correct?</p>	<p style="text-align: right;">Page 52</p> <p>1 the day is we're going to try and have these "E" 2 numbers on the documents so it's a little bit 3 easier to follow through than the lengthy numbers 4 at the bottom, but just to give you some 5 orientation. 6 And if you look at Exhibit No. 5, this 7 is an e-mail from you to Meera Mehta in March of 8 2011, correct? 9 A Yes. 10 Q And you're telling Ms. Mehta that you've 11 made some adjustments to the attached document, 12 let's use this as the final version. 13 The documents attached appears to be a 14 PowerPoint presentation that you used for new hire 15 training in March of 2011, correct? 16 A That's what it looks like. 17 Q Okay. And if you will turn to page 18 E1186.8, it says "The Endo Story." 19 A Oh. 20 Q And this looks like it's essentially a 21 timeline overview of some history with respect to 22 Endo, correct? 23 A That's what it looks like. 24 Q Okay. And is this something that you</p>
<p style="text-align: right;">Page 51</p> <p>1 A Yes. 2 Q All right. And it's the same narcotic 3 that's in OxyContin? 4 A I -- yes. 5 Q Okay. 6 MS. SCULLION: Can we mark this as the 7 next exhibit. 8 (Romaine Exhibit No. 5 was marked 9 for identification.) 10 MS. SCULLION: No, I marked my copy. 11 Thanks. 12 BY MS. SCULLION: 13 Q Let me hand you what's been marked as 14 Exhibit No. 5. And this is Bates-stamped 15 ENDO-CHI_LIT-00151712. 16 Mr. Romaine, before we look through the 17 document, I just want to orient you a little bit 18 to one of the things we tried to do here. 19 If you look in the upper right-hand 20 corner of the document, you see it says E1186.1? 21 A I'm sorry. Can -- 22 Q The top right. 23 A Oh, yes. I'm sorry. 24 Q Yeah. So what we try to do throughout</p>	<p style="text-align: right;">Page 53</p> <p>1 would present to new hires as a way to sort of 2 orient them to the company? 3 A I don't recall, but that's -- looks like 4 what it could be. 5 Q Okay. If you'll look on the bottom 6 left-hand corner of the page, you see it says, 7 "Endo founded 1920"? 8 A Yes. 9 Q Does that sound about right to you? 10 MR. MORRIS: Objection. Form. 11 THE WITNESS: I -- I don't recall. 12 BY MS. SCULLION: 13 Q Okay. And then you see it says, "Endo 14 sold to DuPont in 1969"? 15 A Yes. 16 Q Okay. And then above that, it says, 17 "Percocet launched 1976." 18 A Yes. 19 Q And again, does -- does that seem about 20 right to you? 21 A Again, I don't recall. 22 Q Do you recall that Percocet, though, had 23 launched many years before the Endo that you 24 worked for was founded?</p>

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<p style="text-align: right;">Page 54</p> <p>1 A Yes. 2 Q Okay. It was -- it was a pretty mature 3 product by the time you came to the company, 4 correct? 5 A I don't -- 6 MR. MORRIS: Object to form. 7 THE WITNESS: I don't -- I don't know. 8 BY MS. SCULLION: 9 Q You don't know whether it was mature or 10 not? 11 A I -- I don't know when it was -- I 12 wasn't at the company at the time. 13 Q No, when you joined in 2003 -- 14 A Yes. 15 Q -- and Endo was still selling Percocet, 16 by that point it was -- it was a fairly mature 17 product, though, right? 18 A I would assume so. 19 Q Okay. And that's what it indicates here 20 in your presentation, that Percocet was launched 21 in 1976, and Endo was still selling Percocet in 22 2003, correct? 23 MR. MORRIS: Objection to form. 24 THE WITNESS: They were still selling it</p>	<p style="text-align: right;">Page 56</p> <p>1 wasn't promoting it for the sales force, was still 2 selling Percocet in 2013? 3 A I'm assuming other areas or functions in 4 the company had responsibility for that. I did 5 not. So I was taken away from that. 6 Q Okay. But from time to time did you see 7 reports that would show they were still selling 8 Percocet in 2013, sales numbers? 9 A I never -- I don't recall. I don't 10 recall seeing reports. 11 Q Okay. If you go back to Exhibit No. 4, 12 the little timeline. Now, you joined in 13 June 20 -- 2013 -- no, sorry, June 2003. 14 A Correct. 15 Q And do you recall, though, that Endo had 16 launched some various strengths and variants on 17 Percocet over the years? So on this timeline, 18 January of 2003, there was a launch of a couple of 19 variants, 7.5/500, 10/650, 2.5/325, and then in 20 January of 2002, there is a launch of the 7.5/325 21 and the 10/325. 22 Do you recall that? 23 MR. MORRIS: Objection. Form and 24 foundation.</p>
<p style="text-align: right;">Page 55</p> <p>1 in 2003. 2 BY MS. SCULLION: 3 Q Okay. And moving up the timeline on 4 this page, it says, "Opana brand launched 2006." 5 Do you see that? 6 A Yes. 7 Q Okay. And the Qualitest acquisition at 8 the very top, 2010, do you see that? 9 A Yes. 10 Q Did you have any role in the Qualitest 11 acquisition? 12 A I did not. 13 Q Okay. All right. So put this aside for 14 a moment. 15 When you joined Endo in 2003, the 16 specialty sales force was at that point detailing 17 on Percocet, right? 18 A Yes. 19 Q Okay. And when you left Endo in 2013, 20 Endo as a company was still selling Percocet, 21 correct? 22 A I wasn't involved in that. I don't -- I 23 don't know. 24 Q Are you aware that Endo, even if it</p>	<p style="text-align: right;">Page 57</p> <p>1 THE WITNESS: I don't recall. 2 BY MS. SCULLION: 3 Q Okay. And then in January of 2004, do 4 you recall that Endo had a relaunch of the 2.5/325 5 strength? 6 A Yes. 7 Q All right. That was something that you 8 were involved in? 9 A Yes. 10 Q All right. And then next on the 11 timeline, you see "June 2005, Launch of generic 12 oxycodone." Do you recall that Endo for a period 13 did sell generic oxycodone? 14 A I -- I don't recall that. 15 Q Do you recall one way or the other? 16 A No. 17 Q Okay. And then next is June 2006, the 18 approval of Opana ER/IR. Do you recall that? 19 A Yes. 20 Q Okay. And then in December 2011, there 21 was approval for a reformulated version of -- of 22 Opana ER, correct? 23 A Correct. 24 Q All right. And do you recall that in</p>

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<p>1 February of 2012, there was discontinuation of the 2 original version of Opana ER?</p> <p>3 MR. MORRIS: Objection to form.</p> <p>4 So my -- I have an objection to form and 5 foundation, but if you can answer the -- if you 6 can answer the question, you can.</p> <p>7 THE WITNESS: Oh, I didn't hear the 8 question. I'm sorry.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q So I apologize. Let me try a new 11 question. It may be easier.</p> <p>12 So there was approval for reformulated 13 Opana ER in December of 2011.</p> <p>14 A Yes.</p> <p>15 Q Do you recall then after that in 2012, 16 the original version of Opana ER was discontinued, 17 and then approximately April 2012 there was the 18 actual commercial launch of the reformulated 19 version?</p> <p>20 A Yes.</p> <p>21 Q Okay. And I think you explained that 22 then in 2013, Opana ER faced generic competition 23 for -- from a generic version of oxymorphone, 24 correct?</p>	<p>1 never kicked in.</p> <p>2 MS. SCULLION: There are more coming.</p> <p>3 That happens these days.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q And do you recall that the -- that the 6 IV and suppository preparations of oxymorphone had 7 at one point been branded as Numorphan?</p> <p>8 A I don't recall that.</p> <p>9 Q Don't remember the name at all for 10 Numorphan?</p> <p>11 A No.</p> <p>12 Q Okay. Are you aware, though, that the 13 IV and suppository forms of oxymorphone had been 14 sold by Endo prior to the June 2006 approval of 15 Opana ER and IR?</p> <p>16 MR. MORRIS: Objection. Form and 17 foundation --</p> <p>18 THE WITNESS: I don't recall that.</p> <p>19 MR. MORRIS: -- legal conclusion.</p> <p>20 Just as a reminder, you've been doing 21 great, but not speaking over also includes my 22 objections. It's hard for the court reporter. So 23 we apologize. Question, if I object, then go 24 ahead with your answer.</p>
<p style="text-align: center;">Page 59</p> <p>1 A Correct.</p> <p>2 Q As VP of sales, were you aware that Endo 3 was also selling not only Opana in tablet oral 4 form but also in IV and suppository forms?</p> <p>5 A Yes.</p> <p>6 Q Okay. And those were also oxymorphone 7 preparations, correct?</p> <p>8 A Correct. That was outside of my scope 9 of responsibility, though.</p> <p>10 Q But you were aware those were being 11 sold.</p> <p>12 A I was aware that there was --</p> <p>13 Q In fact, there -- there was some effort 14 to have a continuum of care between the forms 15 used in the hospital setting and -- and after 16 hospital?</p> <p>17 MR. MORRIS: Objection. Foundation.</p> <p>18 THE WITNESS: I don't recall that.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q Okay.</p> <p>21 A I didn't have hospital responsibility.</p> <p>22 Q Okay. All right. "Outpatient" was the 23 word I was looking for and lost. Thank you.</p> <p>24 MR. MORRIS: Noted for the record. It</p>	<p style="text-align: center;">Page 61</p> <p>1 THE WITNESS: Okay.</p> <p>2 MR. MORRIS: You're doing great, though.</p> <p>3 THE WITNESS: Sorry.</p> <p>4 MR. MORRIS: No, that's okay. You're 5 doing great. This is a totally unnatural 6 environment.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q So we spoke a little bit about the 9 concept of controlled substances. Let's make sure 10 that we're on the same page.</p> <p>11 You understand that opioids are a 12 controlled substance?</p> <p>13 A Yes.</p> <p>14 Q And they are classified as a class 2 15 narcotic?</p> <p>16 A Yes.</p> <p>17 Q All right. And is it fair to say 18 class 2 narcotics are not regulated the same as 19 other prescription medications, correct?</p> <p>20 A I -- I believe so.</p> <p>21 Q Okay. They're tightly controlled due to 22 the known inherent risks of those products?</p> <p>23 A Right, with a black box warning.</p> <p>24 Q Okay. What are some of the risks that</p>

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<p style="text-align: center;">Page 62</p> <p>1 you understand are inherent in prescription 2 opioids?</p> <p>3 A I think if they're taken inappropriately 4 or prescribed inappropriately, based on the black 5 box warning, there is risk for addiction.</p> <p>6 Q So the risk for addiction, your 7 understanding, is only if they're taken 8 inappropriately?</p> <p>9 A It -- there's a black box warning, so, 10 you know, patients have to be aware.</p> <p>11 Q Just to make sure I understand, though, 12 is there a risk of addiction if they are taken 13 inappropriately?</p> <p>14 A There's risk for addiction when you're 15 taking those. So physicians have to warn 16 patients, and patients have to be aware of that.</p> <p>17 Does that answer your question?</p> <p>18 Q I guess the question is, are those 19 risks -- those risks exist only when the product 20 is being taken inappropriately?</p> <p>21 MR. MORRIS: Objection. Form, 22 foundation.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q I'm just trying -- and you said --</p>	<p style="text-align: center;">Page 64</p> <p>1 indicated.</p> <p>2 Q Does diversion also include phony 3 prescriptions, for example?</p> <p>4 A Yes.</p> <p>5 Q What other channels of diversion did you 6 become aware of with respect to prescription 7 opioids?</p> <p>8 MR. MORRIS: Objection. Form.</p> <p>9 THE WITNESS: I don't recall.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q Internet pharmacies?</p> <p>12 A I wasn't aware of internet pharmacies.</p> <p>13 Q Okay. You weren't aware that there was 14 a widespread problem of internet pharmacies 15 selling prescription opioids?</p> <p>16 A I don't recall that.</p> <p>17 Q Okay. How about just plain theft of 18 opioids from a relative's medicine cabinet?</p> <p>19 A Yes.</p> <p>20 Q That was a problem?</p> <p>21 MR. MORRIS: Objection to form.</p> <p>22 THE WITNESS: Obviously it could be a 23 problem.</p> <p>24 BY MS. SCULLION:</p>
<p style="text-align: center;">Page 63</p> <p>1 that's how you initially phrased it. I'm just 2 making sure I understand.</p> <p>3 A Yeah, the risks -- the risk exists, and 4 patients and physicians have to be aware of that.</p> <p>5 Q Okay. Do those risks exist if the 6 product is being taken appropriately?</p> <p>7 A The risk is at any time. Hence, the 8 black box warning.</p> <p>9 Q Okay. Are there other risks associated 10 with prescription opioids?</p> <p>11 MR. MORRIS: Objection. Foundation.</p> <p>12 THE WITNESS: I don't -- I don't recall.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q Do you recall there's risks of abuse?</p> <p>15 A I think based on the black box warning 16 that there is -- there is abusive potential.</p> <p>17 Q Okay. A risk of misuse?</p> <p>18 A Risk of misuse.</p> <p>19 Q Risk of diversion?</p> <p>20 A Risk of diversion.</p> <p>21 Q What do you understand "diversion" to 22 mean?</p> <p>23 A Being prescribed inappropriately or 24 taken when you're not -- it's not really</p>	<p style="text-align: center;">Page 65</p> <p>1 Q That was a problem you became aware did 2 occur from time to time?</p> <p>3 A I -- I have heard of it in the news, 4 yes.</p> <p>5 Q Okay. How about patients getting 6 multiple prescriptions for opioids and selling 7 their pills?</p> <p>8 A I'm not -- I'm not specifically aware of 9 any of that.</p> <p>10 Q Were you aware that that was an issue 11 that did occur, though, with prescription opioids?</p> <p>12 A I've heard that in the news, yes.</p> <p>13 Q Okay. You only heard it in the news?</p> <p>14 A I -- I don't recall any other time.</p> <p>15 Q As vice president of sales for Endo, you 16 were overseeing Endo's sale of Opana ER, correct?</p> <p>17 A I was overseeing our sales organization.</p> <p>18 Q Okay. And that included the sales 19 organization with respect to Opana ER, correct?</p> <p>20 A Correct.</p> <p>21 Q And they were also selling Opana IR, 22 correct?</p> <p>23 A For a short period of time, yes.</p> <p>24 Q Okay. And when you first joined Endo,</p>

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<p>1 I'm sorry, as director of specialty --</p> <p>2 A Specialty sales.</p> <p>3 Q -- specialty sales, you were overseeing</p> <p>4 the specialty sales -- sales force that was</p> <p>5 selling Percocet, at least for some time, correct?</p> <p>6 A Correct.</p> <p>7 Q And those are all prescription opioids,</p> <p>8 right?</p> <p>9 A Correct.</p> <p>10 Q Did you ever get any training on what</p> <p>11 the various known channels of diversion were with</p> <p>12 respect to prescription opioids?</p> <p>13 A We were trained if we heard any</p> <p>14 information about diversion to call a compliance</p> <p>15 hotline. That's how we trained our sales force.</p> <p>16 They weren't involved in that.</p> <p>17 Q Let me make sure I understand.</p> <p>18 Did you, though -- did you get training</p> <p>19 about what all the possible channels of diversion</p> <p>20 are with respect to prescription opioids?</p> <p>21 A I don't recall specifically that I</p> <p>22 was -- we were trained.</p> <p>23 Q You mentioned there was a compliance</p> <p>24 hotline, I think you said, correct?</p>	<p>1 manager, and then they -- and the district manager</p> <p>2 would tell them or they would know to call this</p> <p>3 hotline for investigation.</p> <p>4 Q Were they supposed to do anything else?</p> <p>5 A They reported up through the channels,</p> <p>6 and that came through their district manager, and</p> <p>7 then it would go to our compliance department for</p> <p>8 investigation.</p> <p>9 Q Were you ever involved in any of those</p> <p>10 investigations?</p> <p>11 A No.</p> <p>12 Q Was anyone outside compliance involved</p> <p>13 in the investigations?</p> <p>14 A I don't know that.</p> <p>15 MR. MORRIS: Objection. Form and</p> <p>16 foundation.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q Was the sales department involved in</p> <p>19 those investigations?</p> <p>20 A No.</p> <p>21 Q And if the result of that</p> <p>22 investigation -- well, let me ask you, so -- so</p> <p>23 what would compliance do after they completed</p> <p>24 their investigation? Would they ever communicate</p>
<p>1 A Mm-hmm.</p> <p>2 Q We're going to need you to say "yes" or</p> <p>3 "no."</p> <p>4 A Yes.</p> <p>5 Q Thank you.</p> <p>6 And so tell me again, what was your</p> <p>7 understanding of the -- the procedure with respect</p> <p>8 to reporting diversion?</p> <p>9 A There was a number that the</p> <p>10 representatives could call if they suspected</p> <p>11 diversion.</p> <p>12 Q So if a -- a representative means a</p> <p>13 salesperson, correct?</p> <p>14 A Mm-hmm.</p> <p>15 Q Okay. So the --</p> <p>16 MR. MORRIS: You've got to -- sorry.</p> <p>17 THE WITNESS: Yes. I'm sorry.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q So if a salesperson, an Endo salesperson</p> <p>20 in the field suspects there is diversion occurring</p> <p>21 in the geographic area that they're working in,</p> <p>22 what are they supposed to do -- what were they</p> <p>23 supposed to do?</p> <p>24 A They would contract their district</p>	<p>1 back to the sales department on the results of</p> <p>2 their investigation?</p> <p>3 A They would communicate back if -- if</p> <p>4 they -- if they found it to be a -- that there was</p> <p>5 diversion and that that person was removed from</p> <p>6 our -- our call plan.</p> <p>7 Q So if compliance confirmed there was</p> <p>8 diversion, then the provider would be removed from</p> <p>9 the call plan?</p> <p>10 A Yes.</p> <p>11 Q Would anything else happen?</p> <p>12 A I -- I don't know what happened after</p> <p>13 that. It was outside of my responsibility. I'm</p> <p>14 sure there were -- I do know that other people --</p> <p>15 it was triaged to other departments to work --</p> <p>16 work on, but I don't know what that was.</p> <p>17 Q So what do you -- what do -- what's your</p> <p>18 understanding of what you mean by "triaged to</p> <p>19 other department to work on"?</p> <p>20 A So if -- if there was diversion taking</p> <p>21 place, it was triaged to and probably -- and other</p> <p>22 departments were responsible for reporting that,</p> <p>23 and an investigation through the government</p> <p>24 probably at that point.</p>

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<p>1 Q Do you know one way or the other about 2 whether other departments were in fact responsible 3 to report diversion to any government authorities? 4 A I do know there were -- there were 5 departments that had that responsibility, but I -- 6 I didn't work closely with them. 7 Q Which departments were those? 8 A I don't know the names of the 9 departments. I don't recall. 10 Q Do you have a sense of what -- what the 11 areas of responsibility they had generally? I 12 mean you don't need to give names. I'm just 13 trying to understand -- you're thinking of 14 something. I'm trying to understand what you're 15 thinking of. 16 A I -- I just know it was -- that it was 17 triaged to other departments to be handled, but I 18 don't know what happened after that. 19 Q Okay. 20 A I do know the company took it very 21 seriously. 22 Q Took what very seriously? 23 A Took any form of potential diversion. 24 Q But you don't recall, for example, ever</p>	<p>1 potentially be a pill mill, correct. 2 Q Okay. All right. Was there any other 3 training that Endo provided with respect to 4 potential diversion? 5 A I -- I don't recall. 6 Q Okay. And so -- and going back to our 7 discussion of the risks inherent in a prescription 8 opioid, was overdose a -- an inherent risk? 9 A I think it is a risk, and that was 10 included in the black -- issues in the black box 11 warning. 12 Q Okay. And the risks that are in the 13 black box and that we've talked about, addiction, 14 abuse, misuse, diversion, overdose, those are real 15 risks with prescription opioids, correct? 16 MR. MORRIS: Objection. Form. 17 THE WITNESS: Yes. 18 BY MS. SCULLION: 19 Q They're not some theoretical phobia, 20 anything like that; those are actual risks. 21 A Correct. 22 Q Okay. And you would agree that 23 companies that manufacture and sell and distribute 24 prescription opioids have obligations to -- to</p>
<p>1 getting any training as VP of sales -- sales 2 specifically about diversion? 3 A We did train on what to look for with 4 diversion. 5 Q And when you say "what to look for," 6 what do you mean? 7 A You know, potential factors that might 8 give you a clue that diversion could be taking 9 place in some of these offices. 10 Q Are you talking about looking for pill 11 mills? 12 A Yes. 13 Q All right. What's your understanding of 14 what a pill mill is? 15 A My understanding of a pill mill is that 16 it's a -- it's a -- it was physicians' offices 17 that were prescribing but maybe didn't have a 18 brick and mortar office, and they were just 19 prescribing for patients who were looking for 20 opioids. 21 Q And Endo provided the sales force with 22 training on what to look for to try to see if 23 there was a pill mill, correct? 24 A Tried to identify if it could</p>	<p>1 take reasonable steps to -- to address those 2 risks. 3 A Correct. 4 Q Okay. And so, for example, an 5 obligation to monitor for possible diversion. 6 A Yes. 7 MR. MORRIS: Objection to form. 8 BY MS. SCULLION: 9 Q And an ob- -- 10 MR. MORRIS: Legal conclusion. 11 BY MS. SCULLION: 12 Q And an obligation to -- to report 13 suspected diversion. 14 MR. MORRIS: Objection to form, legal 15 conclusion, foundation. 16 THE WITNESS: Yes. 17 BY MS. SCULLION: 18 Q Okay. And an obligation to try to -- to 19 prevent potential diversion? 20 MR. MORRIS: Objection to form, legal 21 conclusion, foundation. 22 THE WITNESS: Yes. 23 BY MS. SCULLION: 24 Q And your counsel is raising an objection</p>

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<p>1 to legal conclusion.</p> <p>2 I'm asking -- let me ask the same</p> <p>3 questions about an obligation to try to prevent</p> <p>4 diversion, monitor for diversion, report</p> <p>5 diversion. Even putting aside legal obligations,</p> <p>6 you would agree that a reasonably responsible</p> <p>7 corporation should be undertaking those -- those</p> <p>8 steps, correct?</p> <p>9 MR. MORRIS: Objection. Form,</p> <p>10 foundation, legal conclusion still.</p> <p>11 THE WITNESS: Yes. Which is why we had</p> <p>12 processes in place to be able to report.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q And the process that -- that you</p> <p>15 identified is sales reps and district managers</p> <p>16 being able to report suspected pill mills and have</p> <p>17 compliance investigate, correct?</p> <p>18 A For further investigation, correct.</p> <p>19 Q Okay. Anything else that the sales</p> <p>20 department was doing to monitor for potential</p> <p>21 diversion?</p> <p>22 A They had -- I mean, they had a way to</p> <p>23 report it. That's all I can -- that's all I</p> <p>24 remember.</p>	<p>1 10:23 a.m., and we're back on the record.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q Welcome back, Mr. Romaine. You</p> <p>4 understand that you're still under oath?</p> <p>5 A I do.</p> <p>6 Q Thank you.</p> <p>7 When you joined Endo in 2003, is it</p> <p>8 correct that Endo was in the process of revamping</p> <p>9 its -- its sales force?</p> <p>10 MR. MORRIS: Objection to form.</p> <p>11 THE WITNESS: I don't recall the</p> <p>12 specifics.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q Do you recall at some point in time</p> <p>15 before you had joined, Endo's sales force was</p> <p>16 largely outsourced through inVentiv --</p> <p>17 A Yes.</p> <p>18 Q -- correct?</p> <p>19 Okay. And we're going to try not to</p> <p>20 speak over each other. I apologize.</p> <p>21 And when you joined in 2003, was there</p> <p>22 an effort ongoing at that time to create a larger</p> <p>23 in-house sales force within Endo?</p> <p>24 A When -- when I joined in 2003, we had</p>
<p>1 Q As vice president of sales, were you</p> <p>2 ever asked to undertake any -- any other efforts</p> <p>3 to monitor potential diversion of Endo's</p> <p>4 prescription opioids?</p> <p>5 A I don't recall that.</p> <p>6 Q Did you ever inquire whether further</p> <p>7 steps should be taken to monitor for potential</p> <p>8 diversion beyond having the -- the compliance</p> <p>9 hotline that can be called?</p> <p>10 MR. MORRIS: Objection. Form,</p> <p>11 foundation.</p> <p>12 THE WITNESS: I did not, because, again,</p> <p>13 it was out of my area of responsibility and</p> <p>14 expertise.</p> <p>15 MS. SCULLION: Okay. We've actually</p> <p>16 been going just about an hour. I was going to</p> <p>17 suggest we take a quick break and then come back.</p> <p>18 Is that okay?</p> <p>19 MR. MORRIS: Sure.</p> <p>20 THE WITNESS: Yes.</p> <p>21 THE VIDEOGRAPHER: The time is</p> <p>22 10:07 a.m. We're going off the record.</p> <p>23 (Recess.)</p> <p>24 THE VIDEOGRAPHER: The time is</p>	<p>1 a -- an in-house sales force of 70</p> <p>2 representatives.</p> <p>3 Q And by the time you left Endo, do you</p> <p>4 know what that grew to approximately?</p> <p>5 A I don't recall specifics, but I think at</p> <p>6 one point with inVentiv as well as Endo, there</p> <p>7 were probably in the neighborhood of four to 500</p> <p>8 representatives.</p> <p>9 Q Can I show you -- I have 1186.</p> <p>10 MS. SCULLION: Oh, that's Exhibit 5?</p> <p>11 Thank you very much.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Can we look back at Exhibit 5.</p> <p>14 And if you will turn --</p> <p>15 A Let me double-check this it -- this --</p> <p>16 okay.</p> <p>17 Q Yeah. And, again, this is the new hire</p> <p>18 presentation from 2011 that you were using.</p> <p>19 If you go to the page we've marked at</p> <p>20 the top E1186.10, it says "Targeted Sales &</p> <p>21 Marketing."</p> <p>22 And again, this is in 2011. It</p> <p>23 indicates here that the national sales force</p> <p>24 consisted at that point of 418 Endo sales</p>

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<p>1 representatives, 228 inVentiv sales professionals, 2 75 urology representatives, and 27 medical center 3 representatives.</p> <p>4 Do those numbers sound about right for 5 2011?</p> <p>6 A Yes.</p> <p>7 Q All right. So the size of the sales 8 force had grown considerably since the time you 9 had joined Endo.</p> <p>10 A Correct. Keep in mind, though, we had 11 different divisions that had -- these people were 12 selling different products. So...</p> <p>13 Q Okay. And as vice president of sales in 14 2011, you were overseeing the entire national 15 sales force, though, correct?</p> <p>16 A I -- I did not have urology 17 representatives or the medical center 18 representatives.</p> <p>19 Q Okay. Who oversaw --</p> <p>20 A And the inVentiv representatives were 21 obviously contract.</p> <p>22 Q Let me take those pieces apart. 23 Urology representatives, who oversaw 24 those?</p>	<p>1 contracted in, correct?</p> <p>2 A Correct.</p> <p>3 Q But as VP of sales, were you still 4 overseeing their contracted work?</p> <p>5 A Yes.</p> <p>6 Q All right. Did the Endo sales 7 professionals and the inVentiv sales professionals 8 all receive the same training?</p> <p>9 A Yes.</p> <p>10 Q All right. So they would receive 11 training in sales skills, for example?</p> <p>12 A And product knowledge.</p> <p>13 Q All right. And -- okay. And by 14 "product knowledge," that includes disease state?</p> <p>15 A Correct.</p> <p>16 Q All right. And just to sort of orient 17 and make sure we're on the same page, I want to 18 talk about the structure of -- of the sales force.</p> <p>19 So -- so starting at the field level, 20 you've got salespeople in the field and some of 21 them are employed by Endo and some are contracted 22 through inVentiv, correct?</p> <p>23 A Correct.</p> <p>24 Q And we've talked about that they're</p>
<p>1 A A gentleman by the name of Marty Lutz.</p> <p>2 Q And the medical center representatives, 3 who oversaw those?</p> <p>4 A I think Marty had those as well.</p> <p>5 Q I take it the urology representatives 6 were calling on urologists specifically?</p> <p>7 A Correct.</p> <p>8 Q All right. And was that in connection 9 with the Fortesta product?</p> <p>10 A Yes.</p> <p>11 Q Okay. And the medical center 12 representatives, I assume they're calling on 13 medical centers, but what types of medical centers 14 were they calling on?</p> <p>15 A I'm not sure, but I know they had a 16 product called Suprelin, which they sold.</p> <p>17 Q Okay. So neither the urology nor the 18 medical center representatives were detailing on 19 the -- on Opana, correct?</p> <p>20 A Correct.</p> <p>21 Q All right. But as to the Endo sales 22 professionals and the inVentiv sales 23 professionals -- let me just back up.</p> <p>24 The inVentiv sales professionals were</p>	<p>1 split between pharma and specialty divisions, 2 correct?</p> <p>3 A Well, and at one point -- the structure 4 of the sales force ebbed and flowed a lot over the 5 years, but at one point they became all one. So a 6 representative would have responsibility for all 7 the physicians in a certain geography.</p> <p>8 Q Do you recall what point in time that 9 occurred?</p> <p>10 A I don't recall specifically.</p> <p>11 Q Was it towards the end of your time with 12 Endo?</p> <p>13 A It was probably in the 2011 period, 14 yeah.</p> <p>15 Q And to make sure I understand correctly, 16 whatever time frame that happened, sounds like 17 maybe 2011, the distinctions between pharma and 18 specialty ceased to exist and it became one 19 unified sales force?</p> <p>20 A Correct.</p> <p>21 Q All right. And did it remain that way 22 until you left Endo?</p> <p>23 A Yes.</p> <p>24 Q Okay. In terms of -- I think you</p>

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<p style="text-align: right;">Page 82</p> <p>1 mentioned the word "territory." Each salesperson 2 was assigned to at least one sales territory, 3 correct?</p> <p>4 A There were -- yes, but there were 5 overlaps sometime of physicians.</p> <p>6 Q So you could have two different sales 7 reps responsible for a given physician if there 8 was overlap.</p> <p>9 A Right.</p> <p>10 Q Okay.</p> <p>11 A And in many cases it might have been an 12 Endo representative and an inVentiv representative 13 in the same overall geography.</p> <p>14 Q Okay. One thing I did want to clarify, 15 were there -- within the inVentiv group, were 16 those also split between pharma and specialty, or 17 was specialty solely Endo in-house?</p> <p>18 A Specialty was mainly Endo in-house.</p> <p>19 Q Okay. And was pharma mainly inVentiv, 20 or was that split?</p> <p>21 A It was mainly inVentiv.</p> <p>22 Q Okay, so pharma. And then the -- there 23 were sales territories that -- geographic areas 24 that were assigned out, correct?</p>	<p style="text-align: right;">Page 84</p> <p>1 A Correct.</p> <p>2 Q They're leading that district?</p> <p>3 A Yes.</p> <p>4 Q All right. And the districts were then 5 organized into regions, correct?</p> <p>6 A Yes.</p> <p>7 Q All right. And each region had a 8 regional business director assigned to it, 9 correct?</p> <p>10 A Correct.</p> <p>11 Q Now, the regional business director, 12 were they -- were their offices in the region or 13 were they sometimes back at Endo's headquarters in 14 Pennsylvania?</p> <p>15 A They worked from their home, so they 16 worked out of a home office in their home.</p> <p>17 Q Okay.</p> <p>18 A But they also spent a lot of time in our 19 home -- home office.</p> <p>20 Q That would be in Chadds Ford, 21 Pennsylvania?</p> <p>22 A Chadds Ford.</p> <p>23 Q Okay. And the regional business 24 director again is someone who generally had -- had</p>
<p style="text-align: right;">Page 83</p> <p>1 A Correct.</p> <p>2 Q Okay. And the territories were then 3 grouped into districts; is that right?</p> <p>4 A Yes.</p> <p>5 Q All right. And did each district have a 6 district manager?</p> <p>7 A Yes.</p> <p>8 Q And am I correct that the district 9 manager would be working within that geographic 10 district, would be in that district itself?</p> <p>11 A Yes.</p> <p>12 Q Okay. And the district manager, you're 13 talking about being district manager with 14 Bristol-Myers, right?</p> <p>15 A Many years ago, yes.</p> <p>16 Q Okay. And is it typically the case at 17 Endo that the district manager was someone who had 18 been a salesperson?</p> <p>19 A Yes.</p> <p>20 Q All right. They were experienced.</p> <p>21 A Yes.</p> <p>22 Q Okay. And they're working with the 23 sales -- salespeople within their district, 24 correct?</p>	<p style="text-align: right;">Page 85</p> <p>1 some field sales experience themselves?</p> <p>2 A Yes.</p> <p>3 Q And then they probably had some 4 managerial experience before they were made a 5 regional business director, correct?</p> <p>6 A Plus other experiences in a home office 7 environment like operations or marketing or 8 something like that.</p> <p>9 Q Okay. And the district managers report 10 up to their regional business directors?</p> <p>11 A That's correct.</p> <p>12 Q And the regional business directors 13 reported to you?</p> <p>14 A That's correct.</p> <p>15 Q And the regional business directors, 16 they were leading their regions.</p> <p>17 A Yes.</p> <p>18 Q Correct? Okay.</p> <p>19 We talked about some of the numbers over 20 time. Okay.</p> <p>21 So for the sale -- the field 22 salespeople, those are sometimes called sales 23 reps, correct?</p> <p>24 A Mm-hmm.</p>

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<p>1 Q If I use the term --</p> <p>2 A Yes.</p> <p>3 Q -- salespeople --</p> <p>4 A Yes.</p> <p>5 Q -- that means the same thing?</p> <p>6 A Yes.</p> <p>7 Q Okay. And the principal activity they engaged in was going out and calling on healthcare professionals in their territory, correct?</p> <p>8 A That's correct.</p> <p>9 Q And that's called detailing?</p> <p>10 A Yes.</p> <p>11 Q Okay. How many days a week were they out detailing on average?</p> <p>12 A It was --</p> <p>13 MR. MORRIS: Objection to form.</p> <p>14 THE WITNESS: The -- can you clarify, the sales representative?</p> <p>15 BY MS. SCULLION:</p> <p>16 Q Yes.</p> <p>17 A Five.</p> <p>18 Q And they're generally trying to see around eight to ten healthcare providers a day?</p> <p>19 A Usually around six.</p>	<p>1 A That's correct.</p> <p>2 Q The nurses?</p> <p>3 A Yes.</p> <p>4 Q Physicians assistants?</p> <p>5 A Yes.</p> <p>6 Q They're expected to sort of get to know the entire office, correct?</p> <p>7 A They had -- yeah, they built a relationship with the office, yes.</p> <p>8 Q Okay. What was the value of building a relationship for a salesperson?</p> <p>9 MR. MORRIS: Objection. Form.</p> <p>10 THE WITNESS: To enhance their relationship in the overall office.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q And why was that important for a salesperson?</p> <p>13 A It's a trusting relationship that they -- they created and built.</p> <p>14 Q Okay. And they're building that trusting relationship with -- again, with the staff of the -- of the office?</p> <p>15 A The entire office, yes.</p> <p>16 Q Including the -- the physicians.</p>
<p>1 Q Okay. Sometimes more, sometimes less?</p> <p>2 A Mm-hmm.</p> <p>3 Q I need you to say "yes" or "no."</p> <p>4 A Yes. I'm sorry.</p> <p>5 Q Thank you.</p> <p>6 And when we talk about a detailing, can you describe what detailing would entail, what it would look like?</p> <p>7 A A representative would go in for a sales presentation to a physician and they would give full prescribing information. So there may be several products that they're talking to that individual physician about, so they would go through their -- their sales presentation and they would have materials that would guide them, that were marketing pieces that they would use to guide them. And then they would talk about the benefits the product might have for a particular patient or the dosing of that particular product and -- and the side effects that could potentially happen with a product like that.</p> <p>8 Q Okay. When a salesperson is going to -- to detail, they're also talking to the office staff?</p>	<p>1 A Yes.</p> <p>2 Q Okay. Were they -- I think you mentioned they're using marketing materials, so those would include, for example, what, brochures?</p> <p>3 A Brochures.</p> <p>4 Q Dosing guides?</p> <p>5 A Yes.</p> <p>6 Q It could include reprints of articles -- of studies?</p> <p>7 A That were approved for use.</p> <p>8 Q Correct. Okay.</p> <p>9 I think also we talked about they can include premiums like pens, lanyards, things that just have the brand name on them, correct?</p> <p>10 MR. MORRIS: Objection to form.</p> <p>11 THE WITNESS: Yes, but those were phased out based on pharma guidelines.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Can you explain what you mean by that?</p> <p>14 A Pharma guidelines changed where you couldn't use promotional -- we called it tchotchkes in -- in the industry. So they only used promotional pieces with information about the product.</p>

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<p style="text-align: right;">Page 90</p> <p>1 Q Okay. And the promotional pieces 2 would -- would include, for example, as we said, 3 sort of the dosing guides, correct? 4 A Correct. 5 Q Approved reprints? 6 A Correct. 7 Q Okay. And you said that sales reps 8 would talk to the physicians, correct? 9 A Correct. 10 Q And they're trying to persuade the 11 physician about why this product may be 12 appropriate for certain patients, correct? 13 MR. MORRIS: Objection to form. 14 THE WITNESS: I don't know if I would 15 use the word "persuade." I think they're -- they 16 built a trusting relationship, and they're 17 educating and providing resources as far as what 18 the product can and can't do. 19 BY MS. SCULLION: 20 Q Okay. Sometimes they would also have 21 lunch with the -- the office staff, correct? 22 A That's correct. 23 Q Would they have lunch with the 24 physician?</p>	<p style="text-align: right;">Page 92</p> <p>1 It could be a lot less than 5 minutes 2 sometimes? 3 A At times it could be less than 4 5 minutes. 5 Q Okay. As you said, sometimes they -- 6 they would have lunch, and those presumably would 7 be a little bit longer? 8 A Correct. 9 Q Okay. And were representatives, 10 salespeople also going out and visiting 11 pharmacies? 12 A Throughout the course of my tenure at 13 Endo, there were times that we did call on 14 pharmacies and there were times when we did not. 15 Q So you said "call on pharmacies." When 16 did representatives calls on pharmacies? 17 A From -- just to clarify, from like what 18 years did they call an pharmacies? 19 Q Yes. 20 A I don't recall specifics there. I do 21 remember towards the end we didn't call on 22 pharmacies. 23 Q Okay. And when you say "call on 24 pharmacies," what do you mean by "call on</p>
<p style="text-align: right;">Page 91</p> <p>1 A Yes. 2 Q Might be showing a promotional video on 3 a portable CD player, for example? 4 A Correct. 5 Q All right. And on average, how much 6 time would a salesperson have with a physician to 7 be presenting information about a product? 8 MR. MORRIS: Objection to form and 9 foundation. 10 THE WITNESS: Just to clarify, for -- 11 for a lunch are you speaking of? 12 BY MS. SCULLION: 13 Q Actually, let me put aside -- putting 14 aside lunches, if they're just coming in and just 15 speaking -- 16 A Okay. 17 Q -- on average, how much time are they 18 getting? 19 A They're independent. Could be 5 20 minutes, it could be 15 minutes. 21 Q Okay. But that -- that would -- in your 22 experience, that would be sort of the -- 23 A The window. 24 Q -- the window. Okay.</p>	<p style="text-align: right;">Page 93</p> <p>1 pharmacies"? 2 A Typically we would stop in and just say 3 that you're in this area, you're calling on 4 several physicians in this area, and what products 5 you're actually promoting to see if they had any 6 questions. 7 Q Okay. Would the representatives be 8 expected to also check in on whether their 9 products -- sorry, the products that they were 10 promoting with Endo were being stocked by the 11 pharmacies? 12 A They could potentially ask that 13 question. 14 Q Okay. 15 A Most of the time they would know. 16 Q Most of the time, I say -- 17 A They would know if they -- 18 Q -- they would already know? 19 A Yeah. 20 Q Okay. They were expected to know that? 21 MR. MORRIS: Objection to form. 22 THE WITNESS: I don't -- I wouldn't say 23 they were expected to know that, but -- but they 24 did know it.</p>

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<p style="text-align: right;">Page 94</p> <p>1 BY MS. SCULLION:</p> <p>2 Q They generally did know.</p> <p>3 A Yeah.</p> <p>4 Q Okay. All right.</p> <p>5 MS. SCULLION: Can we have E842, please.</p> <p>6 (Romaine Exhibit No. 6 was marked</p> <p>7 for identification.)</p> <p>8 BY MS. SCULLION:</p> <p>9 Q I hand you what's been marked as</p> <p>10 Exhibit No. 6, and it's Bates-stamped ENDO_OPIOID_</p> <p>11 MDL-02489842.</p> <p>12 And, Mr. Romaine, again, to make it a</p> <p>13 little bit easier, especially with a document like</p> <p>14 this, in the top corner we've put these "E"</p> <p>15 numbers. This says E0842.1 on the front page.</p> <p>16 A Okay.</p> <p>17 Q And if you see, the "E" numbers continue</p> <p>18 in the upper right-hand corners of the PowerPoint</p> <p>19 presentation.</p> <p>20 Mr. Romaine, do you recognize Exhibit 6,</p> <p>21 the PowerPoint attached?</p> <p>22 A I do not.</p> <p>23 Q Okay. Do you see that this is -- on the</p> <p>24 page E842.3, the front page of the PowerPoint says</p>	<p style="text-align: right;">Page 96</p> <p>1 Q Does it appear to be a PowerPoint</p> <p>2 presentation for a sales skills training?</p> <p>3 A Yes.</p> <p>4 Q All right. If you'll go to the next</p> <p>5 page E842.4, sort of a visual. Is this a visual</p> <p>6 representation of the sales process on which the</p> <p>7 representatives were being trained at this time?</p> <p>8 MR. MORRIS: Objection. Form,</p> <p>9 foundation.</p> <p>10 THE WITNESS: I don't recall, but it</p> <p>11 looks -- looks like something that would be part</p> <p>12 of a training program.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q And does it -- it looks like a</p> <p>15 representation of a sales process, right? I mean</p> <p>16 you start with "Engender Thinking." There is a</p> <p>17 "Needs Identification" that would be identifying</p> <p>18 the needs of the prescribers, correct?</p> <p>19 A Correct.</p> <p>20 Q All right. Having a dialogue is the</p> <p>21 next one, that you might have a dialogue with the</p> <p>22 prescriber, correct?</p> <p>23 A Correct.</p> <p>24 Q And it says there: "Deliver the Core</p>
<p style="text-align: right;">Page 95</p> <p>1 it's "ENDOSell Training Program. Your Custom</p> <p>2 Guide for Selling Success." On the right-hand</p> <p>3 side, it says "Pharma/Specialty," and then it says</p> <p>4 "Released July 2006."</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Do you recall there being an ENDOSell</p> <p>8 training program that was provided to pharma and</p> <p>9 specialty salespeople in 2006?</p> <p>10 A I don't recall specific -- specifically</p> <p>11 the training program, but I do know that</p> <p>12 throughout my course there we constantly trained.</p> <p>13 Q Okay. So this would be an example of --</p> <p>14 of a training program on sales skills given to the</p> <p>15 sales representatives, correct?</p> <p>16 MR. MORRIS: Objection to form and</p> <p>17 foundation.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q You can look through it.</p> <p>20 A I need to look it over, yeah. (Peruses</p> <p>21 document.) I'm sorry.</p> <p>22 Q Have you had a chance to look through</p> <p>23 the document?</p> <p>24 A Yes.</p>	<p style="text-align: right;">Page 97</p> <p>1 Selling Message."</p> <p>2 A Yes.</p> <p>3 Q Those would be the core selling messages</p> <p>4 that Endo had determined for a particular product,</p> <p>5 correct?</p> <p>6 A That's correct.</p> <p>7 Q All right. And the representatives were</p> <p>8 expected to deliver those messages, correct?</p> <p>9 A Correct.</p> <p>10 Q Okay. And then next there's, "Objection</p> <p>11 Handling, Addressed -- Addressing Questions and</p> <p>12 Concerns."</p> <p>13 What was objection handling in your</p> <p>14 experience?</p> <p>15 A My experience would be if there was --</p> <p>16 if there was a concern as to why they weren't</p> <p>17 using a certain product, to try to understand what</p> <p>18 their big issue was so that they could clarify and</p> <p>19 be a resource.</p> <p>20 Q Okay. And what was the purpose of</p> <p>21 clarifying and being a resource?</p> <p>22 A Well, I think one is to make sure you</p> <p>23 understand what the needs of the customer are; and</p> <p>24 two, is there a way to provide the benefit the</p>

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<p style="text-align: center;">Page 98</p> <p>1 product could give them for their offices. 2 Q So is there a way to address the 3 objection such that the prescriber might consider 4 then using the product? 5 A Yes. 6 Q Okay. And then the next step is: 7 "Summary Close, Actionable, Measurable." 8 So that's closing -- closing the sale, 9 correct? 10 A Correct. 11 Q Okay. And you agree that the bottom 12 line job of a sales representative for Endo was in 13 fact to get the physicians to write prescriptions 14 in the end for the products, right? That was -- 15 that was the goal of their job. 16 MR. MORRIS: Objection to form. 17 THE WITNESS: I think -- I don't agree 18 with the way that you've phrased that. I think 19 the goal and the responsibility of the 20 representative is to be a resource and an educator 21 for an office and provide information. 22 BY MS. SCULLION: 23 Q But if they couldn't actually get the 24 physicians to use the products clinically, then</p>	<p style="text-align: center;">Page 100</p> <p>1 MR. MORRIS: Objection to form -- 2 THE WITNESS: I think if -- 3 MR. MORRIS: -- foundation. 4 THE WITNESS: I think if they can't be a 5 resource for the office, and they don't have the 6 information, they're not qualified for the 7 position. 8 BY MS. SCULLION: 9 Q But that -- but what that meant, bottom 10 line, was if they can't sell Opana ER clinically, 11 they can't stay with Endo, correct? 12 A I wouldn't say -- 13 MR. MORRIS: Objection to form. 14 THE WITNESS: -- you can't stay with 15 Endo. I don't -- I don't -- I don't agree with 16 kind of the terminology here. Because I think the 17 representative -- a good representative is a 18 professional, and they're an educator and they're 19 providing a benefit to the office. They're 20 educating them on the benefits of the product, 21 side effects, all of the information, so the 22 physician can make an informed decision. And in 23 the end, if they make a good informed decision, 24 sales will come.</p>
<p style="text-align: center;">Page 99</p> <p>1 they really couldn't stay on as a sales rep, 2 correct? 3 MR. MORRIS: Objection to form. 4 THE WITNESS: I go back to, I think, you 5 know, a good representative is building a 6 relationship with the office, they're being a 7 resource, they're educating the office, and if 8 they do that correctly, everything else will come. 9 BY MS. SCULLION: 10 Q Meaning that prescriptions will be 11 written for products? 12 A If they -- if they satisfy the needs of 13 the office, yes. 14 Q Okay. But that's -- and their job was 15 to try and figure out how to satisfy those needs 16 so that there would be prescriptions written for 17 the products they're promoting, correct? 18 A Their job is to be a resource and an 19 educator for the office. 20 Q Okay. But -- but you -- your message 21 was -- to your sales professionals was that 22 representatives had to sell, for example, Opana ER 23 clinically, and if they couldn't do that, they 24 couldn't stay with Endo.</p>	<p style="text-align: center;">Page 101</p> <p>1 MS. SCULLION: Well, let's get E1203 and 2 the demonstrative that goes along with that. 3 Let's mark the demonstrative first and 4 then the other. 5 (Romaine Exhibit Nos. 7 and 8 were 6 marked for identification.) 7 BY MS. SCULLION: 8 Q Mr. Romaine, I'm going to hand you 9 what's marked as Exhibits 7 and 8. 10 A Thank you. 11 Q And Exhibit 7 is a demonstrative we put 12 together, which is a transcription of what is in 13 Exhibit 8, which is a voicemail recording produced 14 to us. 15 And, Mr. Romaine, what I was going to 16 suggest is if you read along -- along in Exhibit 7 17 while we play Exhibit 8. 18 A Okay. 19 MS. SCULLION: Can we play Exhibit 8. 20 (Exhibit No. 8 played: 21 "MR. ROMAINE: Good morning, this is 22 Larry, and this message is going out to the region 23 business directors, Tom and Ian. Hope you guys 24 had a great weekend. And we're starting off a new</p>

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<p>1 week, which is great, and the second week, the 2 second run of our POAs. And as we all know, these 3 meetings are extremely important for us to ensure 4 that we get our people laser-focused on what we 5 have to deliver on the second half of the year, 6 and more importantly, Opana ER.</p> <p>7 "I sent you a couple e-mails yesterday. 8 There are a few glimmers of maybe we're seeing 9 some, some trendline growth with Opana ER, mainly 10 from retail source ordering from wholesalers have 11 been going up and all -- across all strengths and 12 also our factory orders. What we ship to trade 13 the wholesalers have been going up as well. So we 14 had a couple of really good days last week, which 15 was the first since supply disruption. So I'm 16 hoping those are all critical signs that we're 17 going to see a pop in the TRx's. And granted, the 18 pop in TRx's is what we absolutely need. If you 19 noticed, our stock went down, dropped below 30 on 20 Friday, which was really a tipping point I think 21 for the organization. So we're going to have to 22 keep a close eye on it over the course of the next 23 couple of weeks here, but the conference call, the 24 staff meeting today I think is really important</p>	<p>1 "Thanks, guys. Have a great day. Talk 2 to you today in the staff meeting." 3 BY MS. SCULLION: 4 Q Thank you. 5 Mr. Romaine, do you recognize what we 6 just played as a voicemail that you sent out to 7 the region business directors? 8 A Yes. 9 Q And that was, according to the metadata 10 provided to us, in June of 2012. Does that sound 11 about right? 12 A Yes. 13 Q Okay. And June 2012, Endo was beginning 14 its commercialization of the reformulated version 15 of Opana ER, right? 16 A Yes. 17 Q Okay. And -- and you described in the 18 voicemail that Endo was -- was in crisis mode at 19 that point, correct? 20 A Correct. 21 Q And the crisis mode was that it was time 22 to get Opana ER reformulated up and running, 23 right? 24 A Well, the crisis mode really -- this</p>
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<p>1 for us to kind of ground in what we saw, what we 2 need to deliver on this week, and what we have to 3 see from our people from the targeting and a 4 messaging standpoint with -- with customers right 5 now. And my biggest concerns are there's still a 6 lot of discussions around supply disruption, a lot 7 of discussion around AEs, a lot of discussion 8 around just new formation and copay card versus a 9 clinical sell. And if we have reps out there, I 10 don't care who they are, that can't sell Opana ER 11 clinically, they can't be with Endo. Okay? So 12 let's -- let's make sure that we're really 13 validating that. The other is that I really 14 mandated internally that we minimize the time that 15 people are out of the field. I saw a note the 16 other day where reps were assisting with 17 interviewing. I don't want that to happen. I 18 want to make sure our people are in the field 19 selling, not doing other ancillary things. Those 20 are nice things to do, but right now we are in 21 crisis mode to get Opana ER up and running, and 22 we've got to have every rep in the field whenever 23 we possibly can. So I appreciate your focus on 24 this and making sure this happens.</p>	<p>1 refers to we had a supply outage, so we had many 2 pharmacies, many wholesalers that no longer had 3 product, and we were trying to get it back into 4 the distribution channels. 5 Q But you're talking to the region -- 6 A I think the crisis mode, just to go back 7 to that -- 8 Q Go ahead. 9 A -- was we had a lot of patients that 10 were on Opana ER, and we wanted to make sure that 11 we could continue to provide them with supply, 12 because it's -- it's a -- it was a long duration 13 of product that they were taking, and there was a 14 concern they would have to be switched to other 15 products if we could not do that. So that was 16 really the crisis of it. 17 Q But -- but you're not talking to -- 18 you're not sending this voicemail out to the folks 19 who are in the supply chain and distribution -- 20 A No. 21 Q -- functions, right? This is going to 22 the sales force. 23 A This is -- this was going to regional 24 business directors.</p>

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<p>1 Q To region, and they're in charge of the 2 sales force. 3 A Correct. 4 Q Right? So you're -- you're talking 5 about the crisis mode to get Opana ER up and 6 running with respect to the sales force. 7 A Right. Which -- 8 Q All right. 9 A Which goes back to we had a number of -- 10 a lot of patients out there that were on Opana 11 that no longer could get supply. We had to find a 12 way to get supply to them. 13 Q When you say "get supply," how would 14 the -- how would the regional business directors 15 get supply to them? 16 A They would -- the reps would be calling 17 on physicians and they would prescribe for -- for 18 an existing patient a new supply of product. 19 Q Right. So -- so -- so the getting 20 Opana ER up and running from a sales perspective 21 was reps going out to physicians and getting 22 prescriptions for the reformulated version of 23 Opana ER. 24 A I don't recall --</p>	<p>1 THE WITNESS: They have to be able to 2 sell it clinically. 3 BY MS. SCULLION: 4 Q Okay. And you in fact said that further 5 up in the voicemail, that you're looking -- 6 "You're going to see a pop in the TRx's, and the 7 pop in the TRx's is what we absolutely need." 8 That meant an increase in prescriptions, 9 correct? 10 A I'm just going back to that. Just one 11 moment. 12 Q Yeah. 13 A (Peruses document.) 14 Q It's on Exhibit 7, it's about halfway 15 through the paragraph. 16 A Correct. 17 Q So the pop in TRx's meant an increase in 18 prescriptions, right? 19 A Yes. 20 Q All right. Now, going down from "pop in 21 TRX's" -- one, two, three, four, five -- about six 22 lines where you were discussing "my biggest 23 concerns are." Do you see that? 24 A I'm -- I'm just trying to catch up. I</p>
<p>1 MR. MORRIS: Objection to form -- 2 THE WITNESS: I'm sorry. 3 MR. MORRIS: Objection to form and 4 foundation. 5 THE WITNESS: I don't recall at the time 6 if it was the reformulated or not. I just -- I 7 don't remember that. 8 BY MS. SCULLION: 9 Q Okay. And you said in this voicemail, 10 you were clear that: "If we have reps out there, 11 I don't care who they are, that can't sell 12 Opana ER clinically, they can't be with Endo." 13 Right? 14 A Correct. 15 Q And you meant that they should no longer 16 be a sales representative with Endo, correct? 17 A Well, their role and responsibility is 18 to clinically be able to sell and educate and be a 19 resource for offices, and if they can't do that 20 job, they shouldn't be with the company. 21 Q Okay. But -- but bottom line, that is 22 they have to sell Opana ER clinically, right? 23 A They have to sell it -- 24 MR. MORRIS: Objection to form.</p>	<p>1 apologize. 2 Q Sure. 3 A Can you say that one more time what I'm 4 looking for? 5 Q Yeah, it's the sentence where you began, 6 "And my biggest concerns are there are a lot of 7 discussions around supply disruption." 8 A Yes. 9 Q So you said your concerns were 10 discussions around supply disruption, a lot of 11 discussion around AEs -- that's adverse events, 12 right? 13 A Correct. 14 Q A lot of discussion around just new 15 formulation and copay card versus a clinical sell, 16 right? 17 A Yes. Yes. 18 Q And so you were saying you wanted to see 19 less discussion around supply disruption, AEs, new 20 formulation and copay card; what you really wanted 21 to see was discussion around clinical sell. 22 MR. MORRIS: Objection. Found -- 23 BY MS. SCULLION: 24 Q Right?</p>

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<p>1 MR. MORRIS: Objection. Foundation and 2 form.</p> <p>3 THE WITNESS: I don't recall 4 specifically what -- what this was meaning at the 5 time. But I know they -- it's important for them 6 to be able to provide a clinical sell to the 7 office.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q Okay. And you thought they were 10 spending too much time discussing supply 11 disruption, adverse events, and new formulation?</p> <p>12 MR. MORRIS: Objection. Form, 13 argumentative.</p> <p>14 THE WITNESS: I -- I don't recall that.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q Well, that's what it says here, right? 17 I mean, "My biggest concerns are there are a lot 18 of discussions around supply disruption, a lot of 19 discussion around AEs, a lot of discussion around 20 just new formulation, and copay card versus a 21 clinical sell."</p> <p>22 A I don't --</p> <p>23 Q That's what it says.</p> <p>24 A I don't recall this specific dialogue</p>	<p>1 Q Thank you. I handed you the right one. 2 So Exhibit 9, for folks on the phone, is 3 ENDO-CHI_LIT-00473817, and we marked it E396, and 4 Exhibit 10 is Bates-stamped ENDO-OPIOID_ 5 MDL-05654763, and we've marked it as E247. 6 And, Mr. Romaine, my only question is, 7 on Exhibit 9, if you look through that, is that an 8 example of again a PowerPoint presentation used in 9 connection with training of sales representatives, 10 this time with respect to the specialty doctor and 11 their use of opioids? So really disease state. 12 Well, a little more than disease state. 13 "Understanding the specialty MD and their use of 14 opioids."</p> <p>15 MR. MORRIS: Objection to form and 16 foundation.</p> <p>17 THE WITNESS: I'm just taking a moment 18 to --</p> <p>19 BY MS. SCULLION:</p> <p>20 Q Yeah, please. 21 A -- to review the document. 22 (Peruses document.) 23 Q So, Mr. Romaine -- 24 A I'm sorry, I don't remember your</p>
<p>1 having it, but I mean I heard my voice, so --</p> <p>2 Q That's what you said in your own voice.</p> <p>3 A And that was based on information I was 4 getting from the regional directors.</p> <p>5 Q Okay.</p> <p>6 MS. SCULLION: Can I have 1202?</p> <p>7 I'm sorry, you know what, actually you 8 can hold it. We can hold it.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q So we looked at the sales skills 11 training, one example of sales skill training. 12 That was the ENDOSell, Engender Thinking 13 PowerPoint?</p> <p>14 A Yes.</p> <p>15 MS. SCULLION: Okay. Can we look at 396 16 and 247. Thank you.</p> <p>17 (Romaine Exhibit Nos. 9 and 10 18 were marked for identification.)</p> <p>19 BY MS. SCULLION:</p> <p>20 Q I hand you what's been marked as 21 Exhibits 3 -- oh, sorry -- 9 and 10. And is it -- 22 9 is -- is that -- is that what you have your hand 23 on, 9?</p> <p>24 A This is -- yes, this is 9.</p>	<p>1 question.</p> <p>2 Q That's okay. For Exhibit 9, this is a 3 PowerPoint presentation of the training provided 4 to Endo sales reps, correct?</p> <p>5 A I -- I don't recall this -- this 6 presentation.</p> <p>7 Q Well, if you look on page E396.2, the 8 second page, you see in the bottom left corner of 9 the PowerPoint page there, it says: "For Sales 10 Training Purposes Only."</p> <p>11 A Yes.</p> <p>12 Q So this was intended to be used for 13 sales training, correct?</p> <p>14 A That's what it looks like, yes.</p> <p>15 Q Okay. And in fact, if you turn to 16 page E396.35.</p> <p>17 A 396. --</p> <p>18 Q -- 35.</p> <p>19 Do you see this PowerPoint is talking 20 about physicians -- physician attitudes?</p> <p>21 A Mm-hmm.</p> <p>22 Q "What are the biggest concerns that PCPs 23 have in using opioids to manage chronic pain?" 24 You see that?</p>

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<p>1 A Yes.</p> <p>2 Q And PCPs there means primary care</p> <p>3 physicians, right?</p> <p>4 A Yes.</p> <p>5 Q All right. And if you look underneath</p> <p>6 at the speaker's notes, do you see A, B -- the C:</p> <p>7 "Ask about the last quote. How many of you think</p> <p>8 that some of your customers confuse</p> <p>9 pseudoaddiction with drug seekers? Is this fair?"</p> <p>10 Do you see that?</p> <p>11 A Yes.</p> <p>12 Q And customers there would be referring</p> <p>13 to physicians, correct?</p> <p>14 A I don't know. I'm -- I'm not going to</p> <p>15 assume. I don't know what it means there because</p> <p>16 I don't recognize this document.</p> <p>17 Q Okay. I mean, but this -- this pretty</p> <p>18 clearly is a document that was prepared to train</p> <p>19 Endo's sales representatives on -- on this page,</p> <p>20 for example, one of the biggest concerns that</p> <p>21 primary care physicians have in using opioids to</p> <p>22 manage chronic pain, right? That's what it says.</p> <p>23 A Yes.</p> <p>24 Q Okay. And this is the kind of training</p>	<p>1 very seriously. We always trained on that, yes.</p> <p>2 Q Okay. There was training provided to</p> <p>3 sales representatives on those issues, correct?</p> <p>4 A Yes, that is correct.</p> <p>5 Q Okay. And if you look at Exhibit 10, do</p> <p>6 you see it says, "The Oxymorphone Learning System,</p> <p>7 Module 3"?</p> <p>8 A Yes.</p> <p>9 Q "Oxymorphone Risk Management Program" --</p> <p>10 A Yes.</p> <p>11 Q -- "for sales training background</p> <p>12 purposes only," correct?</p> <p>13 A Correct.</p> <p>14 Q And this was a module used as part of</p> <p>15 that training on the risks associated with, in</p> <p>16 this case, oxymorphone?</p> <p>17 A Yes.</p> <p>18 Q Okay. Mr. Romaine, in addition to</p> <p>19 training -- and we've talked about some training</p> <p>20 on sales skills, training on risks associated</p> <p>21 with -- with prescription opioids -- sales</p> <p>22 representatives were also provided with various</p> <p>23 sales tools, correct?</p> <p>24 A Yes.</p>
<p style="text-align: center;">Page 115</p> <p>1 that Endo did provide to its sales representatives</p> <p>2 in connection with the promotion of Opana ER,</p> <p>3 correct?</p> <p>4 MR. MORRIS: Object -- objection. Form,</p> <p>5 foundation. Excuse me.</p> <p>6 THE WITNESS: I -- I -- I'm not familiar</p> <p>7 with this document, but there was ongoing training</p> <p>8 that took place at all times --</p> <p>9 BY MS. SCULLION:</p> <p>10 Q Was there training, for example --</p> <p>11 A -- for our sales team.</p> <p>12 Q I'm sorry, I didn't mean to cut you off.</p> <p>13 A No, I -- I'm finished. I'm sorry.</p> <p>14 Q Was there training, for example, on the</p> <p>15 concerns that primary care physicians had in using</p> <p>16 opioids to manage chronic pain? Was that an area</p> <p>17 of the training?</p> <p>18 A I -- I don't recall that specifically</p> <p>19 myself.</p> <p>20 Q Do you recall there being training on</p> <p>21 the -- the risks associated with prescription</p> <p>22 opioids that we discussed earlier, diversion,</p> <p>23 abuse, addiction?</p> <p>24 A There was training. The company took it</p>	<p style="text-align: center;">Page 117</p> <p>1 Q Those could be, for example, master</p> <p>2 visual aids.</p> <p>3 A Yes.</p> <p>4 Q Correct?</p> <p>5 All right. Sell sheets?</p> <p>6 A Yes.</p> <p>7 Q Slim jims?</p> <p>8 A Yes.</p> <p>9 Q Approved reprints, we talked about.</p> <p>10 A Yes.</p> <p>11 Q Right?</p> <p>12 Dosing guides?</p> <p>13 A Yes.</p> <p>14 Q Conversion guides with respect to</p> <p>15 opioids?</p> <p>16 A Yes.</p> <p>17 Q Okay. And we talked about videos,</p> <p>18 correct?</p> <p>19 A Mm-hmm. Yes.</p> <p>20 Q Okay. And sales representatives were</p> <p>21 compensated, in part, through incentive</p> <p>22 compensation plans, correct?</p> <p>23 A That's correct.</p> <p>24 Q All right. And those basically were</p>

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<p style="text-align: center;">Page 118</p> <p>1 cash bonuses if sales of specified products grew 2 by certain amounts or met certain levels during 3 specified periods, correct? 4 A They had -- 5 MR. MORRIS: Objection. Form. 6 THE WITNESS: They had goals in their 7 territory, and if they met those goals, they 8 received incentive compensation for reaching those 9 goals. 10 BY MS. SCULLION: 11 Q Okay. And those were goals with respect 12 to sales of particular products that were being 13 promoted, correct? 14 A Right. 15 Q All right. And is it fair to say the 16 incentive compensation was an important part of 17 compensation for sales representatives? 18 A Well, it wasn't the bulk of their 19 compensation. The bulk of their compensation was 20 their salary. 21 Q But it was an important part. 22 A It was -- it was a percentage of their 23 total compensation. 24 Q It was intended to incentivize them to</p>	<p style="text-align: center;">Page 120</p> <p>1 goals? 2 A Yes. 3 Q Okay. So there is also incentive to 4 exceed your sales goals. 5 A Yes. 6 Q Okay. And so the salespeople had 7 incentive compensation. Is it correct also that 8 the district managers and regional business 9 directors also had incentive compensation? 10 A Yes. 11 Q All right. And did you have incentive 12 compensation? 13 A I did. 14 Q All right. 15 A It was based on corporate goals. 16 Q Right. So -- 17 A Overall corporate goals. 18 Q -- to make sure I understand, so the 19 district managers and regional business directors, 20 their incentive compensation, though, was based on 21 sales goals for the district level or the regional 22 level; is that right? 23 A That's correct. 24 Q All right. Whereas you, as the</p>
<p style="text-align: center;">Page 119</p> <p>1 meet or exceed their sales goals, for example. 2 A It was intended to make sure that they 3 were a resource and an educator for their 4 physicians that they called on. 5 Q Well, that was -- that was their basic 6 job, right, was to -- to be that resource and -- 7 A That was their job. 8 Q That was their job. The incentive 9 compensation was designed to incentivize them to 10 reach those sales goals. That was part of that 11 job. 12 A It was designed to reward them for their 13 overall performance. 14 Q Well, they're called incentive 15 compensation plans, right? 16 A Mm-hmm. Yeah, that's correct. 17 Q And so this was compensation that was 18 designed to be an incentive, correct? 19 MR. MORRIS: Object to the form. 20 THE WITNESS: It -- it was an incentive 21 for them to, you know, reach their overall goals. 22 BY MS. SCULLION: 23 Q Okay. And would they be -- could they 24 earn greater bonuses if they exceeded their sales</p>	<p style="text-align: center;">Page 121</p> <p>1 vice president of sales, your incentive 2 compensation was based on overall corporate goals. 3 A Overall corporate goals and objectives. 4 Q Okay. All right. And with respect to 5 the salespeople in the field, in addition to 6 incentive compensation plans, from time to time 7 there were specific contests that might be run for 8 a shorter period focused on a particular product, 9 correct? 10 A That's correct. 11 Q All right. And there were some of those 12 contests that were run with respect to Percocet, 13 for example. 14 A I don't recall that. 15 Q We'll maybe show you some documents and 16 we'll see. 17 A Okay. 18 Q Okay. Do you recall there being 19 contests run for Opana ER? 20 A I don't specifically recall that, but -- 21 Q Okay. Again, we'll try and look at some 22 documents then. 23 A Okay. 24 Q In addition to contests, were there also</p>

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<p>1 awards given to sales representatives; for 2 example, President's Club, Circle of Excellence? 3 A Yes. 4 Q Okay. And in the contests, the sales 5 representatives might earn cash rewards, correct? 6 A Can you restate that question? I'm 7 sorry. 8 Q Sure. In the contests, going back to 9 the contests, sales representatives could earn 10 cash awards? 11 A I think there were multiple ways of 12 rewarding them, but cash was one, yes. 13 Q Okay. Were there sometimes rewards of 14 being given a pretty nice car to be used as 15 your -- your company car, like a BMW? 16 A When I first joined the company, there 17 was one contest I do recall like that. 18 Q Okay. Was that the Grand Prix contest? 19 A Yes. 20 Q Yeah, it goes with the car, I guess. 21 Okay. 22 Sometimes the reps could earn hotel 23 rooms for the national sales meeting, that might 24 be a reward?</p>	<p>1 A Thank you. 2 Q And it is Bates-stamped ENDO_OPIOID_ 3 MDL-02167 -- I'm sorry, 6273, and there's a number 4 cut off. 5 MS. SCULLION: Do you have the last 6 digit? 7 MR. MORRIS: It's 1. 8 MS. SCULLION: Thank you. 9 BY MS. SCULLION: 10 Q So 2162731. 11 All right. And in the top right-hand 12 corner, again we have the E numbers. This is 13 E1249. It starts at 1249.1. 14 So, Mr. Romaine, at the top of the first 15 page of Exhibit 11, do you see this is an e-mail 16 from you to Maria Lane, Mike Weber, Bret Anderson? 17 A Yes. 18 Q Okay. And this was sent in December -- 19 December 20, 2007. Do you see that? 20 A Yes. 21 Q And it's referring to -- it says the 22 subject line, "Opana ER Successful Rep Research - 23 Final Report and Brand IQ Summary attached." Do 24 you see that?</p>
<p style="text-align: center;">Page 123</p> <p>1 A I don't recall that one specifically, 2 but potentially could, yes. 3 Q Okay. So you mentioned you did recall 4 they sometimes could earn cash rewards. What 5 other kind of rewards could they earn in these 6 contests? 7 A I'm trying to think. Sometimes there 8 were gifts, things like that, that they could earn 9 as part of the incentive contests. 10 Q Okay. Do you recall that in 2007, 11 Endo -- 12 This was after Opana ER was launched. 13 A Okay. 14 Q -- that Endo had specifically analyzed 15 what makes a successful sales rep? 16 A I don't recall that. 17 MS. SCULLION: So let's mark the -- 18 1249, please. 19 And this is 11, right? Thank you. 20 (Romaine Exhibit No. 11 was marked 21 for identification.) 22 BY MS. SCULLION: 23 Q Mr. Romaine, I'm going to hand you 24 what's been marked as Exhibit No. 11.</p>	<p style="text-align: center;">Page 125</p> <p>1 A Yes. 2 Q All right. And just -- we'll talk in 3 some more specifics, but just to orient you to the 4 document, if you go to page 1249.3 and .4, it 5 looks to be a summary of Opana brand -- from the 6 Opana brand IQ team research -- successful rep research. 7 Do you see that? 8 A Yes. 9 Q And then if you go to page 1249.7 and 10 the -- 11 A It's hard to find. 12 Q -- rest of this document you'll see this 13 looks like it's a presentation -- 14 A I'm trying to find the number here. 15 MR. MORRIS: Hold on, Counsel, because 16 the numbers are harder to see. 17 BY MS. SCULLION: 18 Q You know what, so it's the first page of 19 the PowerPoint -- 20 A This one here. Okay. 21 Q Correct, it says "Opana ER Successful 22 Rep Study - Final Report." 23 A Yes.</p>

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<p>1 Q And I'm going to ask you some specifics 2 about the report, but I just want to orient you. 3 Do you see this recall generally this -- this 4 report being done?</p> <p>5 A I don't. 6 Q Okay. 7 A I don't remember it.</p> <p>8 Q Do you recall that Endo, though, did 9 from time to time undertake research to assess 10 what was working and not working with its sales 11 representatives?</p> <p>12 A We did market research, yes.</p> <p>13 Q Okay. Did you also, though, do specific 14 research with respect to the sales force and how 15 they were doing?</p> <p>16 A I don't specifically recall that, but 17 that could have taken place.</p> <p>18 Q Okay. Well, let's go back to the first 19 page of Exhibit 11.</p> <p>20 A Okay.</p> <p>21 Q Because -- so clearly the bottom e-mail 22 from Ms. Blunt, Laurie Blunt to you and others on 23 December 19th --</p> <p>24 A Mm-hmm.</p>	<p>1 BY MS. SCULLION: 2 Q That's what you said, right? 3 A Yes. 4 Q Okay. And you said it was very 5 important information, and you thought it would be 6 useful to do business planning, correct? 7 A Yes. 8 Q All right. So then you say it would 9 be -- you thought it would be a good roadmap. 10 MR. MORRIS: Objection to form. 11 THE WITNESS: Is that a question? 12 BY MS. SCULLION: 13 Q Yeah, you said it would be a roadmap to 14 consider when making decisions moving forward, 15 right? That's what you said. 16 A Yes. 17 Q All right. Let's go ahead and take a 18 look at some of this roadmap. If you go to -- 19 you know what, we'll do it this way. I think 20 there should be slide numbers. Do you see those 21 in the orange boxes? 22 A Oh, yes, yes. 23 Q Let's try that. 24 A Okay.</p>
<p style="text-align: center;">Page 127</p> <p>1 Q -- she says: "Please see attached final 2 report and Brand IQ Summary for the Opana ER 3 successful rep research." And then she discusses 4 the objectives of the research. 5 And then your e-mail at the top -- 6 A Mm-hmm. 7 Q -- you say: "This is very important 8 information for us to know and address with our 9 business plan in '08." Correct? 10 A Yes. 11 Q "And I see this as a roadmap to consider 12 when we make decisions moving forward." Correct? 13 A Yes. 14 Q And that -- that's what you wrote in 15 December of 2007, correct? 16 A Yes. 17 Q And it's clear that you had reviewed the 18 plan, and your review was this was important 19 info -- I'm sorry, you reviewed the report, and 20 your review was this is important information. 21 MR. MORRIS: Objection to form, 22 foundation. 23 THE WITNESS: That's what the memo says, 24 right.</p>	<p style="text-align: center;">Page 129</p> <p>1 Q Because the "E" numbers I think did get 2 a little bit hard to see. 3 If you'll go to slide 7, and it should 4 say at the top "Executive Summary." Do you see 5 that? 6 A Yes. 7 Q Okay. And so the summary was: 8 "Overall, the sales force is able to tell a story 9 about Opana ER using the available sales tools. 10 They're also able to differentiate Opana ER from 11 the competition on safety issues, true Q12H 12 dosing," open parens, "BID versus TID for 13 OxyContin," close parens, "durable efficacy over 14 time, the PK profile with steady plasma levels, 15 and no CYP 450 interaction," open parens, "no 16 drug-drug interactions," close parens. 17 Do you see that? 18 A Yes. 19 Q Okay. I mean, so in 2007, was that an 20 important attribute for -- for sales 21 representatives for you, that they should be able 22 to tell a story about Opana ER using the available 23 sales tools? 24 A Well, they should be able to tell full</p>

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<p>1 prescribing information -- give full disclosure.</p> <p>2 Q Okay. And that's using the available</p> <p>3 sales tools?</p> <p>4 A Correct.</p> <p>5 Q They should also be able to</p> <p>6 differentiate Opana ER from the competition on</p> <p>7 safety issues?</p> <p>8 A Yes.</p> <p>9 MR. MORRIS: Objection to form and</p> <p>10 foundation.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q And -- well, I mean, since you say you</p> <p>13 don't remember the report, I'm really asking you</p> <p>14 from your position, you know, in 2007, and this is</p> <p>15 December of 2007, when you've been promoted to VP</p> <p>16 of sales.</p> <p>17 A Right.</p> <p>18 Q So I'm asking from that perspective,</p> <p>19 these are things that you would expect sales</p> <p>20 representatives to be able to do.</p> <p>21 A Well, granted --</p> <p>22 MR. MORRIS: Objection. Form and</p> <p>23 foundation.</p> <p>24 THE WITNESS: -- it was 11 years ago,</p>	<p>1 "objection to form," but keep your objections to</p> <p>2 the appropriate level, but you cannot cross into</p> <p>3 coaching, or we will go to the special master.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q So the question just is these are things</p> <p>6 you would expect the sales representative to be</p> <p>7 doing in 2007, right, in terms of differentiating</p> <p>8 Opana ER from the competition?</p> <p>9 A I don't recall, you know, what my</p> <p>10 expectations would have been in 2007.</p> <p>11 Q Okay.</p> <p>12 A Okay.</p> <p>13 Q At any point in time when you were VP of</p> <p>14 sales, would you have been anticipating that sales</p> <p>15 representatives would be differentiating Opana ER</p> <p>16 from the competition on these various bases?</p> <p>17 A I would --</p> <p>18 MR. MORRIS: Objection. Foundation,</p> <p>19 form.</p> <p>20 THE WITNESS: I would expect that they</p> <p>21 can give full prescribing information on the</p> <p>22 product that they're representing.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q And that would include differentiating</p>
<p style="text-align: center;">Page 131</p> <p>1 but --</p> <p>2 BY MS. SCULLION:</p> <p>3 Q Right.</p> <p>4 A -- I would expect that the</p> <p>5 representative would understand the product and be</p> <p>6 able to give full product disclosure.</p> <p>7 Q Okay. And you would expect them to be</p> <p>8 able to differentiate Opana ER from the</p> <p>9 competition on safety issues?</p> <p>10 MR. MORRIS: Objection. Foundation.</p> <p>11 THE WITNESS: They should be able to</p> <p>12 provide full information on the product.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q And that --</p> <p>15 A Based on the package insert.</p> <p>16 Q Okay. And that would include</p> <p>17 differentiating it on safety issues, the things</p> <p>18 listed here: Safety issues, true Q12-hour dosing,</p> <p>19 they are expected to be able to do this, correct?</p> <p>20 MR. MORRIS: Objection. Foundation.</p> <p>21 He's already said he didn't remember the</p> <p>22 information on this.</p> <p>23 MS. SCULLION: Here -- Counsel, you have</p> <p>24 now crossed the line to coaching. You can say</p>	<p style="text-align: center;">Page 133</p> <p>1 Opana ER from the competition, right?</p> <p>2 A It would include providing the benefits</p> <p>3 of Opana ER based on the package insert.</p> <p>4 Q Okay. And they would be providing that</p> <p>5 in part to differentiate Opana ER from the</p> <p>6 competition.</p> <p>7 MR. MORRIS: Objection. Form.</p> <p>8 THE WITNESS: I -- I -- I can't -- I</p> <p>9 can't speak to that.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q Well, I mean you said in December of</p> <p>12 2007 that this report provided very important</p> <p>13 information. I'm trying to understand the very</p> <p>14 important information.</p> <p>15 Was this important information, that</p> <p>16 your sales force was able to differentiate</p> <p>17 Opana ER from the competition on safety issues?</p> <p>18 A As I -- as I said, I don't recall from</p> <p>19 2007, 11 years ago, exactly what I meant by that.</p> <p>20 Q Okay. Well, going on, the next</p> <p>21 paragraph on the same page said: "Reps also have</p> <p>22 the ammunition to handle objections, such as,</p> <p>23 Opana ER is not covered by many plans in this</p> <p>24 area, I tried Opana ER but it didn't work, or</p>

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<p>1 Opana ER is like all other long-acting opioid 2 analgesics."</p> <p>3 Do you see that?</p> <p>4 A Yes.</p> <p>5 Q As VP of sales, was that something you 6 wanted your reps to have was ammunition to handle 7 those kind of objections?</p> <p>8 MR. MORRIS: Objection to form.</p> <p>9 THE WITNESS: I -- I don't recall from 10 that period of time what my expectations were.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q Did you -- sorry.</p> <p>13 Well, did you expect your reps to be 14 able to handle objections about the products they 15 were detailing? We talked about that before, 16 right?</p> <p>17 A I expected them to be able to present 18 products to physicians based on the package 19 insert, yes.</p> <p>20 Q And -- and to handle objections from the 21 physicians, correct?</p> <p>22 A They should be able to be professional 23 and be able to handle any questions that came up 24 from physicians.</p>	<p>1 could present that to physicians, right?</p> <p>2 A They would -- they would present the 3 package -- they would present the safety aspects 4 of the product in the package insert, yes.</p> <p>5 Q And -- and if differentiation of 6 Opana ER based on safety issues was not in the 7 package insert, they would not be allowed to 8 present that to physicians, correct?</p> <p>9 A I don't recall what other marketing 10 materials at the time were approved. They -- they 11 were allowed to, whatever the approved messaging 12 was, to use that.</p> <p>13 Q Okay. And that could be approved 14 messaging whether it was from the package insert 15 or not, correct?</p> <p>16 A It would be approved by our regulatory 17 review board.</p> <p>18 Q Okay. If you go to the next page.</p> <p>19 A Page -- slide 8?</p> <p>20 Q Yes. Thank you.</p> <p>21 A Okay.</p> <p>22 Q And it says here: "All reps are aware 23 of the current milieu for providing a long-acting 24 opioid (LAO). Physicians are being monitored by</p>
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<p>1 Q Okay. And some of those questions would 2 be, is Opana ER like all other long-acting 3 opioids? Right?</p> <p>4 A Well, I -- I didn't create this 5 information that's in front of me, so I'm not 6 quite sure.</p> <p>7 Q Putting aside -- again, just using this 8 as, you know, an example, but you can put the 9 document aside, and just, you know, as VP of 10 sales, was that a question that providers were 11 asking sales reps, you know, is Opana ER any 12 different from the other long-acting opioids?</p> <p>13 A Well, they would present the package 14 insert and the information in the package insert 15 of what Opana actually is.</p> <p>16 Q Okay. All right.</p> <p>17 Now, Mr. Romaine, I think you've said a 18 few times that you did expect the reps to provide 19 the information that was in the package insert, 20 right?</p> <p>21 A Yes.</p> <p>22 Q And so if this information, for example, 23 that Opana ER was differentiated based on safety 24 issues, if that was in the product insert, they</p>	<p>1 DEA. OxyContin is in the news with abuse and 2 diversion issues at the forefront, and Palladone 3 was pulled from the market in 2005."</p> <p>4 Do you recall that being the milieu, as 5 the word is used here, in which Opana ER was being 6 promoted in 2007?</p> <p>7 A I don't know what the word "milieu" 8 refers to.</p> <p>9 Q Okay. Do you remember that within the 10 market at the time in 2007, these were some of the 11 issues being discussed concerning long-acting 12 opioids?</p> <p>13 A I don't recall that.</p> <p>14 Q You don't recall physicians being 15 concerned about the fact that they were being 16 monitored by the DEA?</p> <p>17 A At that time, I don't recall that, no.</p> <p>18 Q Do you recall that at any time?</p> <p>19 A Not -- no, not specifically. I can't 20 give you a specific instance where I do recall 21 that.</p> <p>22 Q Understood not a specific instance, but 23 do you recall that being a general fact that 24 physicians were concerned at any point between</p>

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<p>1 2007 and 2013 that they were being monitored by 2 the DEA with respect to prescribing of long-acting 3 opioids?</p> <p>4 A I -- I --</p> <p>5 MR. MORRIS: Objection to form.</p> <p>6 THE WITNESS: I don't recall that. I'm 7 sorry.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q Not even in a general way?</p> <p>10 A No.</p> <p>11 Q Do you recall that OxyContin was in the 12 news with abuse and diversion issues at the 13 forefront?</p> <p>14 A I -- I see that, yes.</p> <p>15 Q Do you recall that that was -- that was 16 a fact?</p> <p>17 A I don't recall that. I'm sorry.</p> <p>18 Q You don't recall from your six years as 19 vice president of sales in which you were selling, 20 among other things, a long-acting opioid, a 21 controlled substance, you don't recall the news 22 discussions about OxyContin and abuse and 23 diversion?</p> <p>24 A Oh, I do. I don't recall this. I do</p>	<p>1 you know, I'm really concerned, I'm hearing about 2 OxyContin, for example, abuse and diversion? Is 3 that something that sales reps were encountering?</p> <p>4 A I specifically did not hear that 5 specific objection from physicians.</p> <p>6 Q Did you hear any -- any objections from 7 physicians around their concerns about abuse and 8 diversion --</p> <p>9 A I did not --</p> <p>10 Q -- of opioids?</p> <p>11 A -- specifically, no.</p> <p>12 Q Were you aware that physicians were 13 raising those kind of objections at any point in 14 time between 2007 and 2013?</p> <p>15 A I know there were concern amongst the 16 medical community that there was OxyContin issues.</p> <p>17 Q Okay. What -- and what was the basis 18 for your awareness? How did you know that?</p> <p>19 A Just communication through the news.</p> <p>20 Q Okay. Internal communications, internal 21 discussions at Endo?</p> <p>22 A There was always internal communication 23 about making sure we did the right thing and stay 24 focused on our messaging, our promotional</p>
<p style="text-align: center;">Page 139</p> <p>1 recall OxyContin in the news.</p> <p>2 Q Okay. That's the question. So that 3 was -- that was one of the things that was out in 4 the marketplace was that OxyContin was in the news 5 with respect to abuse and diversion issues, right?</p> <p>6 A Okay. Yes.</p> <p>7 Q Okay. And -- and Palladone was pulled 8 from the market, it says in 2005. Do you recall 9 Palladone, though, being pulled from the market?</p> <p>10 A I -- I don't recall specifically. I 11 remember they were being pulled from the market, 12 but I don't recall any information around that.</p> <p>13 Q Okay. And do you remember that issues 14 like this about OxyContin's abuse and diversion 15 issues, Palladone being pulled from the market, 16 that those were issues that the sales organization 17 had to address when considering how to go out and 18 sell and promote Opana ER?</p> <p>19 MR. MORRIS: Objection to form.</p> <p>20 THE WITNESS: I don't quite understand 21 your question. I'm sorry.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q Sure. Well, were sales reps, you know, 24 encountering objections from physicians saying,</p>	<p style="text-align: center;">Page 141</p> <p>1 messaging.</p> <p>2 Q But there was a discussion too about 3 how -- that the concerns about OxyContin might 4 impact sales of Opana ER, right?</p> <p>5 A I think it was more about how do we 6 ensure that we provide the right information to 7 physicians so that patients are getting the 8 benefit of the product and not diverted.</p> <p>9 Q So you didn't want the physicians' 10 concerns, for example, about OxyContin abuse and 11 diversion to detract from the presentation of the 12 package insert information, for example, with 13 respect to Opana ER.</p> <p>14 MR. MORRIS: Objection to form.</p> <p>15 THE WITNESS: Well, we tried to keep the 16 representatives -- we kept the representatives 17 focused on -- on staying focused on Opana ER, not 18 other issues like OxyContin, a very different 19 molecule.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Okay. Well, the molecule in Opana was 22 oxymorphone, right?</p> <p>23 A Right. Right.</p> <p>24 Q That was twice as -- as potent as</p>

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<p>1 OxyContin. You remember that?</p> <p>2 A Well, probably a poor choice of words.</p> <p>3 I apologize for that, but -- but --</p> <p>4 Q I'm sorry, I didn't understand. What</p> <p>5 was a poor choice of words?</p> <p>6 A "The molecule." When I said "the</p> <p>7 molecule."</p> <p>8 I said we tried to keep our sales team</p> <p>9 focused on selling Opana ER and promoting Opana ER</p> <p>10 to the physicians, and not discussing things that</p> <p>11 they didn't have information on such as OxyContin.</p> <p>12 Q If you go to the slide 9, the next page.</p> <p>13 A Okay.</p> <p>14 Q And the second bullet point reports</p> <p>15 that: "Specialty reps speak passionately and with</p> <p>16 enthusiasm about the importance of selling</p> <p>17 Opana ER."</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q And was that -- were those qualities you</p> <p>21 wanted to see in your -- in your specialty reps?</p> <p>22 A Professionalism and energy, yes.</p> <p>23 Q Passion?</p> <p>24 A Passion.</p>	<p>1 that paragraph, there's a quote from one of the</p> <p>2 sales representatives: "I like selling Opana ER</p> <p>3 for a symptomatic disease state. People know they</p> <p>4 will get relief and the symptoms will go away.</p> <p>5 This product will improve their quality of life."</p> <p>6 And it says it was a specialty rep.</p> <p>7 Were -- were those the kind of attitudes</p> <p>8 you wanted to see in your specialty reps as well?</p> <p>9 A When you say "attitudes," what -- what</p> <p>10 are you referring to?</p> <p>11 Q The fact that the person likes selling</p> <p>12 Opana ER for symptomatic disease state because it</p> <p>13 will improve their quality of life.</p> <p>14 A Well, I like to see the representatives</p> <p>15 being professional in their approach with their</p> <p>16 physicians and enjoying their job.</p> <p>17 Q Okay. And would it be -- was it</p> <p>18 important to you that reps -- yeah, that reps</p> <p>19 believed that Opana ER would improve quality of</p> <p>20 life in the patients?</p> <p>21 MR. MORRIS: Object --</p> <p>22 BY MS. SCULLION:</p> <p>23 Q Was that an important factor for you?</p> <p>24 MR. MORRIS: Objection. Foundation.</p>
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<p>1 Q Enthusiasm?</p> <p>2 A I refer to it as professional. I don't</p> <p>3 know if I would use those words.</p> <p>4 Q Okay. And then the next sentence says:</p> <p>5 "They feel it is a great product for those in</p> <p>6 serious pain." And then says: "Even if they do</p> <p>7 not believe that Opana ER is as different as Endo</p> <p>8 would like it to be, their focus is on helping</p> <p>9 patients and doctors."</p> <p>10 Do you see that?</p> <p>11 A Yes.</p> <p>12 Q And was there a concern raised by</p> <p>13 representatives that Opana ER was not as different</p> <p>14 as Endo would like it to be?</p> <p>15 A I don't recall that.</p> <p>16 Q Even putting aside the document, do you</p> <p>17 recall representatives having a concern when</p> <p>18 Opana ER was first launched that the product was</p> <p>19 hard to differentiate from the other prescription</p> <p>20 opioids already on the market?</p> <p>21 A I don't recall that.</p> <p>22 Q Not at all?</p> <p>23 A No.</p> <p>24 Q Okay. And then you see going along in</p>	<p>1 THE WITNESS: I think it's important</p> <p>2 that -- that Opana ER was a -- an effective</p> <p>3 product and used appropriately, and that the</p> <p>4 physician saw that.</p> <p>5 Does that answer your question? I'm not</p> <p>6 quite sure I'm following.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q Sure. I mean, so the specialty rep is</p> <p>9 calling out that he likes -- he or she,</p> <p>10 apologize -- likes selling Opana ER for a</p> <p>11 symptomatic disease state. People know that they</p> <p>12 will get their relief and the symptoms will go</p> <p>13 away, and this product will improve their quality</p> <p>14 of life.</p> <p>15 Was that a -- a mindset for a specialty</p> <p>16 rep that you thought was appropriate at the time?</p> <p>17 A I -- I can't say that I thought about it</p> <p>18 one way or the other, quite honestly, and this is</p> <p>19 the first time I'm seeing this. So...</p> <p>20 Q Okay. Well, just in general, is that</p> <p>21 the kind of mindset you would have approved of for</p> <p>22 a specialty rep, that they're enjoying selling the</p> <p>23 product and they believe it's improving the</p> <p>24 quality of life for the patients?</p>

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<p>1 A Yes.</p> <p>2 MR. MORRIS: Objection to form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q If you go to the very next page, which 6 is slide 10, and this is a continuation of the 7 executive summary, and now it's switching to 8 talking about the results from the interviews of 9 the pharma reps.</p> <p>10 Do you see it says, "In contrast, pharma 11 reps," in the first paragraph?</p> <p>12 A Yes.</p> <p>13 Q Okay. And the prior information we were 14 just reading on the prior page was specialty reps.</p> <p>15 And it says that: "Pharma reps talked 16 about the challenges in a more negative light and 17 feel that marketing is CII -- marketing of CII to 18 PCPs in the current market setting is very 19 difficult. PCPs are afraid of the consequences of 20 writing long-acting opioids."</p> <p>21 The last sentence there, "PCPs are 22 afraid of the consequences of writing long-acting 23 opioids," was that a phenomenon that you were 24 familiar with as VP of sales, that primary care</p>	<p>1 What the quote there is discussing, 2 about words heard all the time about abuse, 3 diversion and litigation, was that something you 4 were aware of that reps were hearing from 5 providers in the field?</p> <p>6 A You know, I don't recall that coming up.</p> <p>7 Q Then it goes on -- now to switch back to 8 specialty reps, and that's the next bullet point, 9 it says: "Specialty reps speak from a more 10 confident position of perceiving themselves as a 11 consultant to the physicians and practices. To 12 differing degrees, dependent upon the office and 13 the established relationship, they are an asset 14 that the practice has come to accept as part of 15 the team."</p> <p>16 Is that along the lines of what we 17 discussed earlier about reps building a 18 relationship with the office, a relationship of 19 trust?</p> <p>20 MR. MORRIS: Objection to form.</p> <p>21 THE WITNESS: I -- I can't say. I -- I 22 don't know.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Okay. Well, we talked about reps</p>
<p>1 physicians were afraid of the consequences of 2 writing long-acting opioids?</p> <p>3 A I -- I --</p> <p>4 MR. MORRIS: Objection to form.</p> <p>5 THE WITNESS: I can't say that I 6 differentiated between a specialty physician and a 7 primary care physician in rely -- in relating to 8 that issue.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q Okay. But putting it more generally, 11 were you aware that physicians were afraid of the 12 consequences of writing long-acting opioids in 13 this time period?</p> <p>14 MR. MORRIS: Objection. Form, 15 speculation.</p> <p>16 THE WITNESS: I -- I don't recall, 17 honestly.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Okay. It goes on to quote a pharma rep, 20 who says: "Promoting Opana ER compared to other 21 non-opioid products is like night and day, black 22 and white. Words I hear all the time are 'abuse, 23 diversion and litigation.' PCPs are afraid to 24 prescribe an opioid in a rural conservative area."</p>	<p>1 building a relationship of trust. Would it be 2 fair to say that it would be good if they got 3 themselves to be perceived as a consultant of sort 4 or an asset to the practice?</p> <p>5 A Well, they wanted to be perceived as an 6 asset, a resource, you know, a training -- for 7 training.</p> <p>8 Q Okay. If you can go to slide 22. 9 And you see at the top it says, 10 "Pre-call Planning"?</p> <p>11 A Yes.</p> <p>12 Q What was pre-call planning?</p> <p>13 A Preparing for a sales presentation.</p> <p>14 Q All right. So this would be sales reps 15 preparing to make their sales presentations to 16 providers, correct?</p> <p>17 A I'm assuming that's what this is 18 referring to. I shouldn't assume, but --</p> <p>19 Q Is that -- is that what you called 20 pre-call planning?</p> <p>21 A We called pre-call planning preparing 22 for a sales call.</p> <p>23 Q Okay. And how would a rep plan for a 24 sales call? What kind of things would they be</p>

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<p>1 doing?</p> <p>2 A They would be looking at the offices, 3 making sure they remembered the names of the 4 office administrators, the nurses, that sort of 5 thing; best time to go into the office. And then 6 looking at, you know, the most recent call 7 presentation they made and how they can build off 8 of that.</p> <p>9 Q Okay. When you say "looking at the most 10 recent call presentation they -- they made," where 11 would they look for that?</p> <p>12 A They typically would have call notes in 13 their laptop, iPad, I think at the time.</p> <p>14 Q What are call notes?</p> <p>15 A Call notes are just notes from the 16 previous presentation to the physician.</p> <p>17 Q So, for example, when you were a sales 18 rep, did you keep call notes?</p> <p>19 A I did.</p> <p>20 Q What kind of things would you write down 21 in your call notes?</p> <p>22 A The best time to see the office, who the 23 office staff names were, and then what products I 24 actually promoted on my last call.</p>	<p>1 Q Okay. And that would be within the TREX 2 system?</p> <p>3 A No, it was separate -- separate from 4 that.</p> <p>5 Q But was it within a system?</p> <p>6 A It was in a system they had, yes.</p> <p>7 Q Okay. And I apologize, I probably have 8 the wrong name of the system.</p> <p>9 A No, that's okay.</p> <p>10 Q Do you remember what the name of the 11 system was?</p> <p>12 A I don't.</p> <p>13 Q Okay. And in addition to -- to the 14 drop-down notes, would reps also keep handwritten 15 notes just to keep track of the same kind of 16 things you kept track of, who actually I spoke 17 with and what kind of things I might want to 18 follow up?</p> <p>19 MR. MORRIS: Objection. Foundation and 20 form.</p> <p>21 THE WITNESS: I -- I don't think that -- 22 I don't recall, but I don't think they had follow 23 -- they had written notes.</p> <p>24 BY MS. SCULLION:</p>
<p style="text-align: center;">Page 151</p> <p>1 Q Okay. Would you ever make notes about 2 what needs of the physician have been discussed 3 that you might try to use to follow up on?</p> <p>4 A Yes.</p> <p>5 Q Okay. Would you keep notes with respect 6 to discussions about potential use of a product 7 with an appropriate patient type?</p> <p>8 A Yes.</p> <p>9 Q Okay. So some pretty specific notes 10 about discussion, the nature of the discussion you 11 had with the provider, right?</p> <p>12 A Correct.</p> <p>13 MR. MORRIS: Objection. Form.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q And were Endo sales reps also keeping 16 sort of similar kinds of call notes like that?</p> <p>17 MR. MORRIS: Objection. Form.</p> <p>18 THE WITNESS: No. They had what we call 19 drop-down notes.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Okay. And what were drop-down notes?</p> <p>22 A They would click on a drop-down box, and 23 it would have certain things and they would click 24 on it.</p>	<p style="text-align: center;">Page 153</p> <p>1 Q Okay. If you look at slide -- I 2 apologize, slide 22, where we are, and 23, the 3 next page, the discussion there about data 4 provided on the Endo intranet. There is reference 5 to TREX data analytics, the "Prescribes Sales 6 Report." And on the next page, there is a 7 reference in that first point to reps are also 8 viewing the WK data.</p> <p>9 Do you see those references?</p> <p>10 A Yes.</p> <p>11 Q Were these examples of data that sales 12 reps would be looking at as part of their pre-call 13 planning process at Endo?</p> <p>14 A Let me just finish reading these.</p> <p>15 Q Sure.</p> <p>16 A (Peruses document.) Yes.</p> <p>17 Q Okay. What kind of data was the -- for 18 taking the WK data on slide 23, what kind of data 19 was that?</p> <p>20 A That was TRx data.</p> <p>21 Q Meaning prescription data?</p> <p>22 A Prescription data.</p> <p>23 Q Okay. And that would show prescriptions 24 written by specific physicians within, in this</p>

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<p style="text-align: center;">Page 154</p> <p>1 case, a sales rep's territory?</p> <p>2 A Correct.</p> <p>3 Q Okay. And it would indicate the number</p> <p>4 of prescriptions for a given product written?</p> <p>5 A For their product, yes.</p> <p>6 Q Okay. Would -- did sales reps also have</p> <p>7 information about the number of prescriptions</p> <p>8 being written for competitor products?</p> <p>9 A They would have market data, not</p> <p>10 competitive products.</p> <p>11 Q And what does that mean, "market data"?</p> <p>12 A So if you look at a class of products,</p> <p>13 like a migraine drug, they would see how often a</p> <p>14 physician was writing migraine drugs.</p> <p>15 Q Okay.</p> <p>16 A But not specific products.</p> <p>17 Q All right. And the prescriber sales</p> <p>18 report, what was that?</p> <p>19 A I don't -- I don't recall.</p> <p>20 Q It says it's a -- it says it's an</p> <p>21 important indicator of the pain market in the</p> <p>22 rep's territory in a month, three months' and six</p> <p>23 months' time frame.</p> <p>24 Does that refresh your recollection at</p>	<p style="text-align: center;">Page 156</p> <p>1 current data. It wasn't from a year ago what this</p> <p>2 physician was prescribing. It was relatively</p> <p>3 current what that physician is prescribing, right?</p> <p>4 A You know, I don't recall specifically,</p> <p>5 but that's what this information is sharing.</p> <p>6 Q Okay. And if you go to slide 24, and</p> <p>7 the last bullet point says: "Post-call planning</p> <p>8 often occurs in the car after the call or at the</p> <p>9 end of the day. While reps do use the noting</p> <p>10 system provided, many make additional notes so</p> <p>11 that they know where to pick up in the call</p> <p>12 continuum. The majority are taking -- making</p> <p>13 notes or using the drop-down boxes provided on</p> <p>14 TREX."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q Okay. And so does this indicate that</p> <p>18 many reps were making additional notes in addition</p> <p>19 to the TREX noting system?</p> <p>20 A I --</p> <p>21 MR. MORRIS: Objection. Foundation.</p> <p>22 THE WITNESS: I don't know.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Okay.</p>
<p style="text-align: center;">Page 155</p> <p>1 all?</p> <p>2 A It does -- I don't recall the actual</p> <p>3 report itself. They did receive data, information</p> <p>4 like Wolters Kluwer, that WK data, but I don't</p> <p>5 recall that report.</p> <p>6 Q Okay. And if you go again to slide 23</p> <p>7 where it discusses viewing the WK data.</p> <p>8 A Excuse me.</p> <p>9 Q The paragraph says at the end:</p> <p>10 "However, it was mentioned that it is two weeks</p> <p>11 behind and not quite as accurate as the prescriber</p> <p>12 sales report."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q So the WK is Wolters Kluwer, right?</p> <p>16 A Yes.</p> <p>17 Q The Wolters Kluwer data was lagging by</p> <p>18 maybe two weeks behind, right?</p> <p>19 A That's what it --</p> <p>20 MR. MORRIS: Objection to form.</p> <p>21 THE WITNESS: -- looks like in this</p> <p>22 presentation.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Okay. But -- but it was still fairly</p>	<p style="text-align: center;">Page 157</p> <p>1 A I don't know.</p> <p>2 Q And again, I mean, do you recall whether</p> <p>3 reps were taking additional notes outside of the</p> <p>4 drop-down menus?</p> <p>5 A I never saw a rep take additional notes</p> <p>6 other than a drop-down.</p> <p>7 Q Did you ever hear about reps doing that?</p> <p>8 A No.</p> <p>9 Q Were reps allowed to do that?</p> <p>10 A They were not supposed to do that.</p> <p>11 Q And why was that?</p> <p>12 A It just wasn't efficient.</p> <p>13 Q You had done it when you were a sales</p> <p>14 rep, right?</p> <p>15 A We didn't have laptops and information</p> <p>16 that we have today. The technology.</p> <p>17 Q Was there a point in time when you</p> <p>18 joined Endo -- strike that.</p> <p>19 When you joined Endo in 2003, were reps</p> <p>20 allowed to keep handwritten notes?</p> <p>21 A I -- I don't recall when that change</p> <p>22 took place. I don't know.</p> <p>23 Q But there was a change at some point in</p> <p>24 time, right?</p>

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<p>1 A At some point in the industry, yes. 2 Q Okay. 3 MR. MORRIS: Counsel, we've been going 4 for close to an hour and a half, so at some point, 5 if we could -- 6 MS. SCULLION: Yeah, we can take a quick 7 break. Sure. 8 THE VIDEOGRAPHER: The time is 11:46 9 a.m., and we're going off the record. 10 (Recess.) 11 THE VIDEOGRAPHER: The time is 12 12:04 p.m., and we're back on the record. 13 BY MS. SCULLION: 14 Q Mr. Romaine, welcome back. 15 A Thank you. 16 Q A reminder, you're still under oath. 17 A Yes. 18 Q Looking -- staying on Exhibit 11, if you 19 go all the way towards almost the end of the 20 document to slide 55. Okay. And to make sure 21 we're on the same page, at the top it says 22 "Challenging aspects of job," correct? 23 A Yes. 24 Q All right. And do you see the second</p>	<p>1 clarify. 2 BY MS. SCULLION: 3 Q Okay. 4 A And explain what they meant by that. 5 Q And when it says "the sales goals," in 6 December of 2007, when you were VP of sales, what 7 was your role in determining sales goals for 8 Opana ER? 9 A Well, we had a forecasting team that did 10 all of that for us, along with operations. So, 11 you know, I received my goal from, you know, 12 senior leadership and -- and the forecasting team. 13 Q And did you have an understanding about 14 how those forecasts were developed? 15 A Yes. 16 Q And what were the forecasts based on? 17 What were they using to develop the forecasts? 18 A It was based on potential within 19 geography and then historical background. 20 You know, I think the one thing that 21 you have to realize is Opana -- Opana ER, I mean, 22 it never really achieved probably more than 8 or 9 23 percent market share in the opioid market. So I'm 24 surprised when I see something like this, that it</p>
<p style="text-align: center;">Page 159</p> <p>1 quoted paragraph, it says: "Territory size with 2 two reps. I don't know if we will be able to 3 generate the numbers. The goals are very, very 4 aggressive. I wonder if it's even attainable. 5 This year from market share to goal, I did well at 6 the beginning of the year, but the second half I 7 did not even get one-third of my goal. In some 8 regard it is punitive for doing well at the 9 beginning."</p> <p>10 And again, it's quoting a specialty rep. 11 Do you recall -- putting aside the 12 document, do you recall in 2007 sales reps being 13 concerned about sales goals being aggressive? 14 A I don't recall that. 15 Q Okay. Did you ever think that the sales 16 goals were too aggressive? 17 A No. 18 Q Okay. So if you were hearing this -- 19 this rep face to face, what -- what would your 20 response have been if they said the sales -- the 21 goals are very, very aggressive? 22 A Well, I would -- 23 MR. MORRIS: Objection to form. 24 THE WITNESS: I would ask them to</p>	<p style="text-align: center;">Page 161</p> <p>1 was aggressive or high. 2 Q I just want to go back. When you were 3 explaining the forecasting, you said -- 4 A Mm-hmm. 5 Q -- "potential within a geography." 6 A Geography. 7 Q All right. What do you mean by that? 8 A It was the potential of the number of 9 physicians, the number of experienced opioid 10 writers that existed within that geography. 11 Q So would there be data that you could -- 12 that Endo would look at, the forecasters would 13 look at that would tell them how many physicians 14 in a given geography had experience writing 15 opioids, right -- prescribing opioids; is that 16 right? 17 A I don't know exactly how they did that. 18 Q Okay. 19 A I just know that they -- they looked 20 at -- those were some of the parameters. 21 Q Okay. And you also said historical 22 background was the other aspect of forecasting. 23 A Previous Rx's for Opana ER or Opana. 24 Q So looking -- so if you're in 2008,</p>

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<p style="text-align: center;">Page 162</p> <p>1 you're looking at 2007 using it as a basis for 2 forecasting?</p> <p>3 A Correct.</p> <p>4 Q Okay. Do you know whether any aspect of 5 forecasting depended upon an attempt to understand 6 the medical needs within a given population within 7 a geographic area, whether they needed the 8 medication?</p> <p>9 A I don't know that for a fact, but I know 10 that looking at the physician populations there, 11 probably took that into account.</p> <p>12 Q Was -- putting aside forecasting, was 13 the medical need within a given -- let's say a 14 territory or let's say a district, medical needs 15 in a district, was that ever something you tried 16 to assess as a sales organization to understand, 17 well, really how -- you know, how many patients 18 need how many pills in a particular area?</p> <p>19 A Well, can you maybe describe "medical 20 need" to me? I -- I'm not quite following your -- 21 your question.</p> <p>22 Q Sure. I mean -- so I mean, would -- so, 23 for example, would -- would you have looked to 24 understand, well, what's the number of pain --</p>	<p style="text-align: center;">Page 164</p> <p>1 found it to be very important information, 2 correct?</p> <p>3 A Correct.</p> <p>4 MR. MORRIS: Objection to form.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q Okay. And do you recall -- strike that. 7 So you understood, at least at the time, 8 you would have read and seen what sales reps were 9 saying about the messages they were delivering to 10 physicians, correct?</p> <p>11 MR. MORRIS: Objection to form.</p> <p>12 THE WITNESS: I -- just to clarify, 13 this -- this is a market research, so it was a 14 point in time and it was one rep.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q Yeah.</p> <p>17 A So you couldn't extrapolate that to the 18 whole sales force, right.</p> <p>19 Q Well, understood, although this wasn't 20 an attempt to assess aspects of the sales force --</p> <p>21 A Right.</p> <p>22 Q -- right?</p> <p>23 A Right.</p> <p>24 Q Okay. I'm just saying, so you -- when</p>
<p style="text-align: center;">Page 163</p> <p>1 chronic pain patients within a given geographic 2 area? Would that be something you would be 3 considering in thinking about sales goal?</p> <p>4 A Well, because I didn't set the -- the 5 goal, I didn't, but others in the organization may 6 have. I'm just not aware of that.</p> <p>7 Q You don't know one way or the other 8 whether it happened?</p> <p>9 A I don't know.</p> <p>10 Q Okay. Was it something that -- that you 11 ever considered, though -- putting aside 12 forecasting, was it something that you ever 13 considered as an Endo executive, what are the 14 actual medical needs within any given community?</p> <p>15 A I -- I --</p> <p>16 MR. MORRIS: Objection to form.</p> <p>17 THE WITNESS: I did not look at that.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Okay. Now, coming back to Exhibit 11.</p> <p>20 A Okay.</p> <p>21 Q Going back to the very first page, I 22 think you said you don't recall specifically the 23 report, but again, it's clear from your e-mail 24 that you did read the report at the time and you</p>	<p style="text-align: center;">Page 165</p> <p>1 you read the report, you would have seen at least 2 what was quoted with respect to what sales reps -- 3 those sales reps were saying, correct?</p> <p>4 A I would have seen it at the time.</p> <p>5 Q You would have seen that. Okay.</p> <p>6 And you would have seen the analysis in 7 the report about what overall sales reps were 8 saying about the difficulties, for example, in 9 selling Opana ER. You would have seen those 10 statements.</p> <p>11 MR. MORRIS: Objection. Form and 12 foundation.</p> <p>13 THE WITNESS: If there were those 14 statements.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q Okay. Well, we saw some. I mean, you 17 don't remember them, but we saw they're in the 18 report. I'm just saying you would have seen these 19 statements in the report, right?</p> <p>20 MR. MORRIS: Objection. Form and 21 foundation.</p> <p>22 THE WITNESS: I would have seen them in 23 the report.</p> <p>24 BY MS. SCULLION:</p>

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<p>1 Q You would -- I mean you would have read 2 the whole report. 3 A Yeah. 4 Q Okay. That's an easy way -- 5 A Yes. 6 Q -- easy way to put it. 7 And do you recall taking any corrective 8 action having seen the statements reported in the 9 report to say, for example, Well, no, sales reps 10 shouldn't be making those statements? 11 A I don't recall that at the time. I 12 don't recall it. 13 Q Do you -- do you recall whether any 14 investigation, any further investigation was made 15 about why reps would be making certain reported 16 statements in the report? 17 A I don't recall that either. 18 Q Okay. So I take it you also don't 19 recall anyone being disciplined with respect to 20 delivering any of the messages reported in this 21 report? 22 A No. 23 Q Okay. And do you recall there being -- 24 any change being made to the messaging that sales</p>	<p>1 in the office, right? 2 A Yes. 3 Q Okay. And -- and they also were going 4 to pharmacies in their territories and trying to 5 understand, for example, the stocking at the 6 pharmacy, correct? 7 A Yeah, just to clarify, there was a 8 period of time when they did that, and then 9 they -- we stopped calling on pharmacies. 10 Q Thank you. I -- I -- you did say that 11 before. 12 But there was a period of time when that 13 was part of their responsibility as well. 14 A Yes. 15 Q Okay. And were reps sort of more 16 generally expected to try to get to know the -- 17 the medical needs of the community that they 18 were -- in which they were selling? 19 MR. MORRIS: Objection to form. 20 THE WITNESS: I'm not quite sure. 21 Through the -- I'm -- maybe clarify the question 22 just a little. 23 BY MS. SCULLION: 24 Q Sure.</p>
<p style="text-align: center;">Page 167</p> <p>1 reps were delivering based on what was reported in 2 this report? 3 MR. MORRIS: Objection to form. 4 THE WITNESS: I do know, just to 5 clarify, that market -- marketing would look at 6 these reports to make sure that their materials 7 met the needs of the customer. 8 BY MS. SCULLION: 9 Q Okay. 10 A And they may have made adjustments and 11 additional training based on that. 12 Q Okay. But you don't specifically recall 13 one way or the other whether that ever happened in 14 response to this report. 15 A Well, I -- I don't know specifically to 16 this report, no. 17 Q Okay. Let's put Exhibit 11 aside. 18 Okay. Mr. Romaine, we talked about this 19 a little bit already in terms of salespeople in 20 the field getting to know obviously the physicians 21 on whom they're calling, they're trying to get to 22 know those physicians, correct? 23 A Correct. 24 Q And they're trying to get to know people</p>	<p style="text-align: center;">Page 169</p> <p>1 Just, in general, were they expected to 2 try to understand, you know, what the -- what the 3 population looked like, the demographics, was it 4 an older population, a younger population, a 5 population that had, you know, a more frequent 6 occurrence of any particular disease state? Was 7 that something they were expected to try to get to 8 understand? 9 MR. MORRIS: Objection to form. 10 THE WITNESS: I think -- to clarify, I 11 think how they would learn that is just through 12 the offices that they called on in a certain 13 geography. 14 BY MS. SCULLION: 15 Q Okay. Were they expected to try to be 16 familiar with -- strike that. Sorry. 17 Would they have been expected to know 18 the various clinics that would be in their 19 territory, let's say pain clinics, to know 20 which -- what clinics are out there? 21 A The clinics that they would be calling 22 on? 23 Q Or just even if they weren't calling on 24 them, they're expected to know the pain clinics.</p>

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<p style="text-align: center;">Page 170</p> <p>1 A If they didn't have them on their call 2 plan, they weren't expected to know them. 3 Q They weren't expected to have any idea 4 about them at all, any knowledge? 5 A They wouldn't have a knowledge of them 6 because they stuck to a specific call plan -- 7 Q Mm-hmm. 8 A -- that they were responsible for. 9 Q Okay. We discussed a little bit earlier 10 the district managers working with the salespeople 11 within their district. 12 A Yes. 13 Q And -- and that they were working with 14 them on sort of a day-to-day basis? 15 A Yes. 16 Q Okay. Were they working with them on 17 training with respect to the core messages around 18 the products being promoted? 19 A Their responsibility would be to coach 20 on -- on the delivery of the message, yes. 21 Q Okay. Did they from time to time go on 22 ride-alongs with the reps? 23 A Yes. 24 Q And what's a ride-along?</p>	<p style="text-align: center;">Page 172</p> <p>1 A Mm-hmm. 2 Q This is an e-mail -- two e-mails, one 3 from Mike Weber and then another e-mail from you. 4 I'm going to start with Mr. Weber's 5 e-mail -- 6 A Okay. 7 Q -- at the bottom on the first page. 8 A Yes. 9 Q And this is dated February 12th, 2007, 10 from Mike Weber to a few different folks, and then 11 cc'd to you, Ron Jackson, and two other 12 individuals. Subject matter "ECRs." 13 Who was Mike Weber? In February of 14 2007, what was his position? 15 A Mike Weber was the director of primary 16 care sales force, and I was the director of the 17 specialty sales force at the time. 18 Q Okay. And do you see he's writing to 19 the Midwest leadership team? 20 A Yes. 21 Q And the folks in the "to" line, were 22 they -- were they the Midwest leadership team at 23 the time? 24 A It looks like that's who they were, yes.</p>
<p style="text-align: center;">Page 171</p> <p>1 A They would go with the representative to 2 their offices and observe their sales 3 presentations. 4 Q And after observing, would they provide 5 then coaching to the sales rep? 6 A Yes. 7 Q All right. Do you recall Endo using 8 something called an ECR, an ENDOSell Coaching -- 9 A Report. 10 Q -- Report? 11 A Yes. 12 Q Okay. 13 MS. SCULLION: Do we have 1184? 14 (A discussion was held off the record.) 15 (Romaine Exhibit No. 12 was marked 16 for identification.) 17 MS. SCULLION: Thank you. 18 BY MS. SCULLION: 19 Q I hand you what's marked as 20 Exhibit No. 12. 21 A Thank you. 22 Q And this is Bates stamped ENDO_OPIOID_ 23 MDL-02147122, and we've marked it E1184 in the top 24 right-hand corner.</p>	<p style="text-align: center;">Page 173</p> <p>1 Q Okay. And Midwest, that was -- that was 2 a region? 3 A The Midwest was a -- yes, I'm assuming 4 it was a region, yes. 5 Q Okay. And it included Ohio? 6 A I -- I don't know that for a fact. 7 Q Okay. Do you remember one of the people 8 in the "to" line is Teresa Leigh? Do you see 9 that -- 10 A Yes. 11 Q -- Leigh, Teresa? 12 A Mm-hmm. 13 Q Do you recall Ms. Leigh being a district 14 manager in Ohio? 15 A She was a district manager in Ohio. 16 Q Okay. Okay. And so Mr. Weber is 17 telling the Midwest leadership team that the ECR, 18 ENDOSell Coaching Report, should be completed no 19 later than 48 hours after every field ride. 20 Do you see that? 21 A Yes. 22 Q And if you read through that first 23 paragraph, he goes on to state that: "Opana ER 24 needs to be highlighted appropriately since</p>

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<p style="text-align: center;">Page 174</p> <p>1 nothing is more important than the success of this 2 launch at this time."</p> <p>3 Do you see that?</p> <p>4 A Yes.</p> <p>5 Q And that -- that was true at that time 6 in February 2007, there was really nothing more 7 important to the sales force than the success of 8 the Opana ER launch, correct?</p> <p>9 A I --</p> <p>10 MR. MORRIS: Objection. Foundation.</p> <p>11 THE WITNESS: I can't say that that's 12 correct. I mean, they had other responsibilities 13 as well.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q Okay. You did get this e-mail, you were 16 cc'd on it from Mike Weber, correct?</p> <p>17 A Mm-hmm.</p> <p>18 Q Did you -- you need to say "yes" or 19 "no."</p> <p>20 A Yes. Yes.</p> <p>21 Q Did you -- did you go back to him and 22 say, Mike, that's not an appropriate message to be 23 delivering to your district managers?</p> <p>24 A I -- I don't recall.</p>	<p style="text-align: center;">Page 176</p> <p>1 the time that they were in the field with the 2 representative.</p> <p>3 Q Right. And it's -- and that is the 4 document that will tell you what was discussed -- 5 exactly what was discussed and coached --</p> <p>6 A It's a summary of what was discussed --</p> <p>7 Q -- with the representative.</p> <p>8 A -- during that, yes.</p> <p>9 Q Okay. So it's a pretty important 10 document in terms of the operation of the sales 11 force?</p> <p>12 A It's a doc --</p> <p>13 MR. MORRIS: Objection to form.</p> <p>14 THE WITNESS: It's a document to -- to 15 help the representative understand what they need 16 to continue to improve on.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q It's an important document that 19 representatives are supposed to read and pay 20 attention to, right?</p> <p>21 A Yes.</p> <p>22 Q Okay. If you go to the next paragraph, 23 Mr. Weber refers to: "Attached is a good example I pulled from an ECR DM summary."</p>
<p style="text-align: center;">Page 175</p> <p>1 Q Okay. And I mean, he was your 2 counterpart, so fairly senior within the sales 3 organization, right?</p> <p>4 A That's correct.</p> <p>5 Q All right. And this is how he's 6 directing these district managers to -- to run 7 their business with respect to Opana ER, right?</p> <p>8 A I don't know what his method is here, 9 but --</p> <p>10 Q I'm saying that these are the 11 instructions he's conveying to them, correct?</p> <p>12 A Correct.</p> <p>13 Q Okay. All right. And then with respect 14 to the ECR itself, in the last sentence of that 15 paragraph, he says: "Keep in mind that this is 16 the only document that shows what exactly was 17 discussed and coached by you with the 18 representative regarding his or her success of 19 Opana ER and the actions that need to be taken."</p> <p>20 Do you see that?</p> <p>21 A I do see that.</p> <p>22 Q And that's an accurate description of -- 23 of the ECR, right?</p> <p>24 A An ECR is -- it's a coaching report for</p>	<p style="text-align: center;">Page 177</p> <p>1 Do you see that --</p> <p>2 A Yes.</p> <p>3 Q -- second sentence in the next 4 paragraph? Okay.</p> <p>5 And I don't know that we have an 6 attachment to this particular document, but do you 7 see the DM summary at the bottom of Exhibit 12, 8 correct?</p> <p>9 A Yes.</p> <p>10 Q All right. And this -- the DM summary 11 was the district manager summary, correct?</p> <p>12 A Yes.</p> <p>13 Q So this is an example of a district 14 manager summary from an ECR.</p> <p>15 A I'm assuming that's what he -- it's a 16 cut and paste.</p> <p>17 Q That's -- that's what he says, right?</p> <p>18 A Yeah.</p> <p>19 Q Okay. And the DM summary that Mr. Weber 20 is pulling out as an example, a good example, says 21 in paragraph 1: "Hypertargeting top five through 22 seven. You consistently hypertarget using sales 23 data to identify those targets, seeing them more 24 than once a week and pressuring sales."</p>

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<p>1 Did I read that correctly?</p> <p>2 A Yes.</p> <p>3 Q And what was hypertargeting?</p> <p>4 MR. MORRIS: Objection. Form and foundation.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q Was hypertargeting something that Endo was using in February of 2007 with respect to Opana ER sales?</p> <p>7 A I -- I don't recall that terminology being used or -- and -- or terminology being used for Opana ER.</p> <p>8 Q Okay. And then he goes on to say that -- the DM goes on to say: "Opana ER was presented in a primary position on all calls trying to move the customer to writing or expanding their writing from trial to adoption."</p> <p>9 Do you see that?</p> <p>10 A Yes.</p> <p>11 Q And then the DM is coaching: "Call on some targets, two to three a week, through year end and get them writing."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p>	<p>1 MR. MORRIS: Objection. Foundation.</p> <p>2 THE WITNESS: I don't -- I don't know.</p> <p>3 I can't say yes to that because I don't know.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Okay. But regardless, he's putting in this e-mail to the Midwest leadership team, he's using this as an example. Whether it's from an ECR or not, he's using this as an example, correct?</p> <p>6 A Correct.</p> <p>7 Q And he said, "This is a good example," right?</p> <p>8 A Yes, he says that.</p> <p>9 Q He says it's a good example of the coaching that should be provided -- he thinks should be provided to reps, including through the Midwest leadership team, right?</p> <p>10 MR. MORRIS: Objection. Form.</p> <p>11 THE WITNESS: Can you repeat the question again? I'm sorry.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q So this is an example of what he thinks is good coaching that should be provided to the reps through the Midwest leadership team, right?</p>
<p style="text-align: center;">Page 179</p> <p>1 Q And so that was coaching that one of Endo's district managers was providing to a sales rep in February of 2007, correct?</p> <p>2 MR. MORRIS: Objection. Form and foundation.</p> <p>3 THE WITNESS: I -- I don't know -- I don't know how he took this to put it into this document.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Well, I mean -- I mean he says that he's pulled it from an ECR DM summary, right?</p> <p>6 A Right.</p> <p>7 Q Mr. Weber says?</p> <p>8 A Right.</p> <p>9 Q You knew Mr. Weber pretty well?</p> <p>10 A I knew Mike, yes.</p> <p>11 Q Okay. And he was an honest person?</p> <p>12 A Yes.</p> <p>13 Q You wouldn't expect him to be misrepresenting this in the e-mail, right?</p> <p>14 A No.</p> <p>15 Q Okay. So, I mean, you would expect that -- in fact, he's pulled this DM summary from an actual ECR, right?</p>	<p style="text-align: center;">Page 181</p> <p>1 A I -- I don't know if he -- I don't know what he was thinking as he wrote this. I'm not sure if he thought this was a good example or not.</p> <p>2 Q Well, he says, "Attached is a good example."</p> <p>3 A Okay.</p> <p>4 Q Right?</p> <p>5 A Yes.</p> <p>6 Q He does say that.</p> <p>7 A Okay.</p> <p>8 Q So this is the example he's choosing to present to the Midwest leadership team.</p> <p>9 A Right.</p> <p>10 Q Okay. And the example he's choosing to present includes coaching that says, with respect to hypertargeting, seeing them more than once a week and pressuring sales, right? That's what he -- that's what the example says.</p> <p>11 A Yes.</p> <p>12 Q And the example says that the reps should call on some targets two and three times a week through the year and get them writing, right?</p> <p>13 A Correct.</p> <p>14 Q And writing within this sales force</p>

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<p style="text-align: center;">Page 182</p> <p>1 meant writing prescriptions. Get them writing 2 prescriptions is what that would refer to. 3 A I don't know what he's referring to 4 there. I -- 5 Q Is there anything else that -- 6 A It's not specific, I guess is what I'm 7 saying. 8 Q Is there anything else a sales rep would 9 be getting a provider writing other than a 10 prescription? 11 A From my perspective, just to clarify, I 12 mean, I don't -- I would never use that 13 terminology. So it's about, you know, performing 14 your duties as a professional and encourage 15 physicians to understand the business and 16 understand the product, and then if the patient 17 would benefit from that product, based on a 18 physician's experience, then they would write -- 19 they would write a prescription for it. 20 Q All right. But that -- that's what 21 physicians do is they actually write 22 prescriptions, or writing usually -- 23 A Right. 24 Q -- was referring to writing a</p>	<p style="text-align: center;">Page 184</p> <p>1 A Resources. 2 Q He's also providing -- he or she is also 3 providing the promotional materials, correct? 4 A Correct. 5 Q All right. Providing the reprints -- 6 the approved reprints, right? 7 A Yes. 8 Q Okay. And in the end, if that -- if 9 that sales rep is not able to get physicians 10 clinically writing prescriptions, they really 11 can't continue as a sales rep. That's what you 12 said in your voicemail. 13 A Their role is to clinically present 14 the -- the information to a physician, and 15 they're -- they are responsible for generating 16 business -- 17 Q Right. 18 A -- if there is a patient population that 19 would benefit from it. 20 Q Right. 21 A Correct. 22 Q If you go to the second page of 23 Exhibit 11, a little bit at the very top in this 24 example, again, it says: "Maximize speaker</p>
<p style="text-align: center;">Page 183</p> <p>1 prescription. 2 A They write prescriptions, yes. 3 Q Okay. And as we heard earlier from your 4 voicemail, your view was that that was the job of 5 the sales rep, they had to get physicians 6 prescribing the product clinically, that was their 7 job. 8 MR. MORRIS: Objection. Form. 9 THE WITNESS: Well, to go back to what I 10 just referenced, clinically is providing full 11 product information so they can make an informed 12 decision. 13 BY MS. SCULLION: 14 Q But -- but the -- but the idea is that 15 they make an informed decision, and the result is 16 that they're writing a prescription. 17 A If it clinically matched the needs of a 18 patient. But that's the decisions -- that's a 19 physician's decision. 20 Q Okay. But they're making that decision 21 after getting detailed by the sales rep, and the 22 sales rep is providing -- 23 A Education. 24 Q -- providing the PI, right?</p>	<p style="text-align: center;">Page 185</p> <p>1 program" -- 2 MS. KUBLY: Exhibit 12. 3 MS. SCULLION: Thank you very much. 4 BY MS. SCULLION: 5 Q Exhibit 12, second page, E1184.2 says: 6 "Maximize speaker program attendance." 7 Do you see that? 8 A Yes. 9 Q Did Endo use a speaker program in 10 connection with the promotion of Opana ER in 2007? 11 A We did. I don't recall it that year, 12 but I do -- we did use speaker programs. 13 Q And can you explain what a speaker 14 program was -- or what that speaker program was? 15 Sorry. 16 A You would have a resident expert 17 physician come in and speak to other physicians 18 about their practice and the -- the clinical 19 benefit where they saw one of our products fit 20 with their patient population. 21 Q And these were other physicians that 22 Endo identified to participate in the speaker 23 program, correct? 24 A Yeah. They were -- they were invited to</p>

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<p style="text-align: center;">Page 186</p> <p>1 attend based on the -- the representative that was 2 having the program.</p> <p>3 Q Who would -- who would make the 4 invitation to a specific physician to be a speaker 5 at one of those programs?</p> <p>6 A Well, they had preprinted and approved 7 speaker invitations that they used.</p> <p>8 Q The -- the sales reps had preprinted 9 invitations?</p> <p>10 A Yes.</p> <p>11 Q Okay. Do you know which department 12 within Endo identified speakers that were invited 13 to -- to come to those presentations -- come and 14 make those presentations, I should say? Thank 15 you.</p> <p>16 A Oh, they would be -- it would be a 17 combination of our medical team as well as our 18 marketing team.</p> <p>19 Q Was -- was the speaker program helpful 20 to Endo's sales efforts for Opana ER?</p> <p>21 MR. MORRIS: Objection to form.</p> <p>22 THE WITNESS: I would say it's very hard 23 to -- to tell. You know, if -- if physicians 24 came, I think it was a learning experience for</p>	<p style="text-align: center;">Page 188</p> <p>1 page of Exhibit 13, this is an e-mail from you to 2 a number of individuals within Endo in various 3 departments, right? I think --</p> <p>4 A Yes.</p> <p>5 Q -- we see folks in marketing, in 6 medical. We see Mr. Weber, correct?</p> <p>7 A Yes.</p> <p>8 Q Okay. And this is dated December 7, 9 2006, and the subject is "Opana FIR, 10 November 30th, 2006." Do you see that?</p> <p>11 A Yes.</p> <p>12 Q And FIR, that's a reference to a field 13 intelligence report, right?</p> <p>14 A That's -- that's correct.</p> <p>15 Q All right. And then starting at 16 page E1183.2, and the next two pages is the Opana 17 field intelligence reports for November 30th, 18 2006, correct?</p> <p>19 A Correct.</p> <p>20 Q What was a field intelligence report?</p> <p>21 A It was just information that was 22 captured from the representative through the 23 district managers that was rolled up through the 24 regional directors and then eventually to me.</p>
<p style="text-align: center;">Page 187</p> <p>1 them.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q Okay. Were sales reps encouraged to 4 invite the physicians they were calling on to 5 attend these -- the speaker programs, as is 6 highlighted in this example?</p> <p>7 A Yes, it was an educational tool that 8 they could use.</p> <p>9 Q Okay. And that was an educational tool 10 that the sales reps were providing as part of 11 their sales process, correct?</p> <p>12 A Correct.</p> <p>13 MS. SCULLION: Can I have 1183?</p> <p>14 (Romaine Exhibit No. 13 was marked 15 for identification.)</p> <p>16 BY MS. SCULLION:</p> <p>17 Q I'm going to hand you what's been marked 18 as Exhibit No. 13.</p> <p>19 A Thank you.</p> <p>20 Q And this is Bates-stamped ENDO_OPIOID_ 21 MDL-00881701, and we've numbered it E1183.1 at the 22 top.</p> <p>23 This is 13; is that right? Yeah.</p> <p>24 And, Mr. Romaine, looking at the first</p>	<p style="text-align: center;">Page 189</p> <p>1 Q Okay. And was -- were field 2 intelligence reports done on a somewhat frequent 3 basis, monthly or --</p> <p>4 A I don't know if there was a routine to 5 the --</p> <p>6 Q Okay.</p> <p>7 A -- to the timing of them, but they 8 were -- they were done.</p> <p>9 Q And you said that it was from reps to 10 DMs up to you, correct?</p> <p>11 A To the regional directors, and then up 12 to me.</p> <p>13 Q I'm sorry.</p> <p>14 A So it was a summary.</p> <p>15 Q Now, this particular report is from 16 November of 2006 before your promotion. Did you 17 continue to receive field intelligence reports 18 after your promotion?</p> <p>19 A I don't recall if I continued that 20 process.</p> <p>21 Q Okay. So -- but this is a report 22 that -- did you prepare the field intelligence 23 report itself, actually put the document together?</p> <p>24 A No. That was done for me. The regional</p>

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<p>1 directors provided it, and it was put together.</p> <p>2 Q Okay. You would have reviewed it at the 3 time, however?</p> <p>4 A Yes.</p> <p>5 Q Okay. And then you're passing it on. 6 Was it your practice when you reviewed the reports 7 that to -- to double-check if anything seemed to 8 be suspicious, inaccurate? Like if you would say, 9 That doesn't make sense, would you double-check 10 and make sure it was right before passing it on?</p> <p>11 A Yeah, I --</p> <p>12 MR. MORRIS: Objection to form.</p> <p>13 THE WITNESS: I don't recall.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q I mean, would it have been your practice 16 to -- to just pass it on without even reviewing it 17 at all?</p> <p>18 A I just don't recall this -- the field 19 intelligence report, if I -- if I double-checked 20 it or not.</p> <p>21 Q Okay. But you were -- is it safe to say 22 if you passed it on, you were passing it on 23 because you thought it was useful information, 24 correct?</p>	<p>1 A Yes.</p> <p>2 Q "Not willing to try a new ER opioid 3 without hearing some success from thought 4 leaders/specialists."</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q And that was another piece of 8 intelligence obviously coming up from the field 9 that you passed on?</p> <p>10 A Yes.</p> <p>11 MR. MORRIS: Objection to form.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q What -- what's the reference to "thought 14 leader"? What is a "thought leader"?</p> <p>15 A A thought leader is someone that has a 16 steep knowledge in -- in the treatment of the 17 disease, has a lot of experience using product, 18 many different products in that marketplace -- in 19 that disease state.</p> <p>20 Q Did -- did Endo make use of thought 21 leaders as part of its sales and promotion of 22 Opana ER? Start with that.</p> <p>23 A Thought leaders were used a lot in 24 speaker programs as an example.</p>
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<p>1 A Yes.</p> <p>2 Q Okay. And on this first page of your -- 3 of the field intelligence report for 4 November 30th, 2006, under the heading "Key 5 Objections to Opana from Physicians" --</p> <p>6 A Yes.</p> <p>7 Q -- do you see the second bullet point 8 says: "One objection that has been arising is 9 that they don't feel the need for another opioid 10 at this point, regardless of the formulation."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q So that was a piece of information that 14 was coming up from the field in November of 2006, 15 correct?</p> <p>16 A That was a piece of information that 17 someone had -- had brought forward, yes.</p> <p>18 Q And that you passed on within Endo, 19 correct?</p> <p>20 A Yes.</p> <p>21 Q All right. And the next bullet point 22 that came up from the field was: "Not willing to 23 try a new ER opioid" -- and that's extended- 24 release opioid, right?</p>	<p>1 Q Okay. And we just spoke about speaker 2 programs.</p> <p>3 A Yes.</p> <p>4 Q How else were thought leaders used in 5 connection with Opana ER?</p> <p>6 A We also used them in training to educate 7 our sales team. And marketing team.</p> <p>8 Q And there -- it says here "thought 9 leaders/specialists." Is there a distinction 10 between thought leaders and specialists?</p> <p>11 MR. MORRIS: Objection to form, 12 foundation.</p> <p>13 THE WITNESS: I don't know. I don't 14 know what they're referring to, or I -- I don't 15 see a difference.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q Okay. And in your experience, did the 18 use of thought leaders in connection with Opana ER 19 help support Endo's sales efforts for that 20 product?</p> <p>21 A I can't -- I can honestly say I don't 22 recall any specific -- where they actually had a 23 difference one way or the other.</p> <p>24 Q Just to go back a bit, when you joined</p>

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<p style="text-align: center;">Page 194</p> <p>1 Endo in 2003, Ms. Ammon was still with the 2 company, correct?</p> <p>3 A She was the CEO at the time, yes.</p> <p>4 Q Did you ever have a chance to meet her?</p> <p>5 A I did.</p> <p>6 Q Okay. Did you find her to be a -- a 7 thoughtful person?</p> <p>8 A Yes.</p> <p>9 Q Good business person?</p> <p>10 A Yes.</p> <p>11 Q Honest?</p> <p>12 A Yes.</p> <p>13 Q Proud of how Endo built its business?</p> <p>14 A Yeah. I didn't know her very well. I 15 only met her once at a Christmas party.</p> <p>16 Q Okay.</p> <p>17 A But -- but she seemed --</p> <p>18 Q That was the impression.</p> <p>19 A -- like a very nice person.</p> <p>20 Q Okay. But that was the impression, that she was a -- I mean, putting aside being at a 22 Christmas party, did she have a reputation for being a good business leader?</p> <p>24 A A lot of integrity.</p>	<p style="text-align: center;">Page 196</p> <p>1 Q But if -- but if she did make that kind of statement, you would expect that she would know 3 what she was talking about, right?</p> <p>4 A Yes.</p> <p>5 Q Okay. If you continue back on 6 Exhibit 13, the same page we were on, going down 7 two more -- three more bullet points, you see 8 under "Key Objections to Opana from Physicians," 9 it says "Abuse." Do you see that?</p> <p>10 A Let me just -- on the -- under "Key Objections for Opana"?</p> <p>11 Q "Key Objections" --</p> <p>12 A Oh, I'm sorry.</p> <p>14 Q -- "to Opana from Physicians." That's 15 okay, there's two similar ones. The first 16 heading, "Key Objections to Opana from 17 Physicians."</p> <p>18 A Okay.</p> <p>19 Q And go down to the second to last bullet 20 point is easier.</p> <p>21 A Yes.</p> <p>22 Q It says "Abuse." So that was an 23 objection that was being reported up from the field in November of 2006, correct?</p>
<p style="text-align: center;">Page 195</p> <p>1 MR. MORRIS: Objection to form. BY MS. SCULLION:</p> <p>3 Q Okay. A lot of integrity.</p> <p>4 THE REPORTER: Excuse me.</p> <p>5 MR. MORRIS: Yeah, sorry.</p> <p>6 THE REPORTER: I can't get --</p> <p>7 MR. MORRIS: Same rule of talking over, I've got to get my words in too.</p> <p>9 THE WITNESS: My fault.</p> <p>10 MS. SCULLION: I was also speaking over. BY MS. SCULLION:</p> <p>12 Q And so if Ms. Ammon had said that the use of thought leaders to help move the medical community around the treatment of chronic pain was an important part of Endo's success, would you believe that was probably a pretty accurate statement?</p> <p>18 MR. MORRIS: Objection. Form and foundation.</p> <p>20 THE WITNESS: I -- I don't know. I -- I've never heard her make that statement, so I -- I don't know. I can't imagine she would get to that level in the business.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: center;">Page 197</p> <p>1 A That came from somebody within the organ- -- sales organization.</p> <p>3 Q And you passed that on within Endo.</p> <p>4 A Yeah.</p> <p>5 Q And then the next heading is "Key Objections to Opana from Pharmacists."</p> <p>7 A Mm-hmm.</p> <p>8 Q And it says: "The key objection to Opana from pharma -- from my pharmacists is cost to stock in the pharmacy before a prescription comes through the pharmacy."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q The second bullet point says: "Cost and fear of having another opioid in the store."</p> <p>16 Was that a -- an objection that Endo was hearing from pharmacists with respect to Opana ER in November 2006?</p> <p>19 MR. MORRIS: Objection. Form and foundation.</p> <p>21 THE WITNESS: I can honestly say -- again, this -- I didn't write this, so I can honestly say I did not hear that, that there was a fear of stock -- because there was a black -- they</p>

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<p>1 had a storage box in the pharmacies for opioids, 2 so they were locked up. 3 BY MS. SCULLION: 4 Q Okay. But -- but clearly somebody 5 within -- somebody in the field was reporting that 6 there was some cost and fear of having another 7 opioid in the stores among some pharmacists, 8 correct? 9 A Yeah. And just to clarify, I mean this 10 could be -- 11 Q I'm sorry, if you could answer just that 12 question. That somebody was reporting that some 13 pharmacists had that fear, correct? 14 A Some -- 15 MR. MORRIS: Objection. Foundation. 16 THE WITNESS: I'm assuming that is -- 17 looking at this -- 18 BY MS. SCULLION: 19 Q Okay. 20 A I shouldn't say assume, but, yes, it 21 looks like someone reported that. 22 Q And then you reported that again back up 23 to Endo. 24 A This report went to Endo.</p>	<p>1 typically got, you know, four to five, six, ten 2 minutes to -- to present their -- their products 3 to the physician. 4 BY MS. SCULLION: 5 Q Okay. And when they're presenting the 6 products to the physician, they in fact often were 7 presenting more than one product at the same time, 8 right? 9 A Yes. 10 Q So that whole time period, whatever it 11 was, if it was three minutes, five minutes, six 12 minutes, wouldn't be spent just on one product, 13 right? 14 A That's right. 15 Q Okay. 16 A But just to put that in context also, 17 you know, let's say it's three products, they 18 would spend most of their time on the first one, 19 and then much less on the second and third. 20 Q Okay. And then if you go down -- I'm 21 sorry, I'm on the next page, E1183.3. And if you 22 would go down to the last section, which is headed 23 "What messages or data in the MVA are the most 24 compelling to your customers?" Do you see that?</p>
<p style="text-align: center;">Page 199</p> <p>1 Q Right. Okay. And then the last section 2 on this page is: "How much time are physicians 3 providing you to discuss Opana and the brand's 4 benefits?" Do you see that? 5 A Yes. 6 Q And here the bullet points talk about 7 three to five minutes to discuss Opana and the 8 brand's benefits. With an appointment or lunch, 9 it's more than adequate, 30 minutes. Without an 10 appointment or lunch, it's more -- it's no more 11 than two minutes. Someone else is reporting up in 12 the last bullet point it can be anywhere from a 13 few seconds to 15 minutes. 14 And those are all consistent with -- 15 with your experience of sort of a variety of 16 amount of time that reps would have to discuss 17 Opana ER and the brand's benefits with physicians, 18 right? 19 MR. MORRIS: Objection. Foundation. 20 THE WITNESS: I would say that -- and 21 again, you have to realize this -- this report, it 22 could be one person saying this. So, you know, 23 you have to take it in the correct context. 24 But I would say that representatives</p>	<p style="text-align: center;">Page 201</p> <p>1 A Mm-hmm, yes. 2 Q And the MVA, again that's the master 3 visual aid, correct? 4 A Correct. 5 (Counsel conferring.) 6 BY MS. SCULLION: 7 Q We're going to pull that MVA just so you 8 can -- 9 A Okay. 10 Q -- you can take a look at it. 11 But what's reported here is that the 12 most compelling message -- messages to the 13 customers include -- there's pharmacokinetics, 14 durable efficacy over a three-month period, no 15 known CYP-450 inhibitions, efficacy, and true 16 every 12-hour dosing. They like the TIMERx 17 delivery system. Is that how you pronounce that, 18 TIMERx or TIME Rx? 19 A I think it was TIME Rx. 20 Q Okay, TIME Rx. That makes more sense. 21 Let me ask you about that one, efficacy 22 and true every 12-hour dosing, was that -- that 23 was a core message for Opana ER in November of 24 2006, right?</p>

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<p>1 A Yes.</p> <p>2 Q Okay. And then if you go to the last</p> <p>3 page of Exhibit 13, you see the section headed</p> <p>4 "What messages or data in the MVA are the least</p> <p>5 compelling" --</p> <p>6 A Yes.</p> <p>7 Q -- "to your customers?" Do you see</p> <p>8 that?</p> <p>9 A Yes.</p> <p>10 Q And here what's reported up are a few</p> <p>11 things: The mean concentration, the front cover,</p> <p>12 the promise info, black box, and the indication</p> <p>13 additional safety information.</p> <p>14 And so if I understand correctly, what</p> <p>15 was being reported up was, among other things, is</p> <p>16 the black box was one of the least compelling</p> <p>17 messages or data being presented to the customers.</p> <p>18 MR. MORRIS: Objection. Foundation.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q Right?</p> <p>21 A I -- I don't know that other than</p> <p>22 through this, but I can put it in context to say</p> <p>23 they were calling on experienced opioid writers,</p> <p>24 so they are very familiar with the black box, even</p>	<p>1 A Thank you.</p> <p>2 MS. SCULLION: And I apologize, I don't</p> <p>3 have another one.</p> <p>4 THE WITNESS: Oh, are we done with this</p> <p>5 one for now?</p> <p>6 BY MS. SCULLION:</p> <p>7 Q We might come back to it, so just hold</p> <p>8 on to it.</p> <p>9 A Okay.</p> <p>10 Q So I've handed you exhibit -- I'm sorry,</p> <p>11 this is 14, right?</p> <p>12 A Yes.</p> <p>13 Q Okay. Exhibit 14, which is Bates-</p> <p>14 stamped ENDO_OPIOID_MDL-01655584, and we've</p> <p>15 numbered at the top E1023.</p> <p>16 And you can see on the first page of</p> <p>17 Exhibit 14, this is an e-mail from Ms. Vitanza to</p> <p>18 you and others dated September 18th, 2006. The</p> <p>19 subject matter is "Final Opana and Opana ER MVA</p> <p>20 and Navigator." Correct?</p> <p>21 A Yes.</p> <p>22 Q Okay. And then if you turn back within</p> <p>23 Exhibit 14, do you recognize pages E1023.2 going</p> <p>24 on through 1023.17 as the master visual aid in use</p>
<p style="text-align: center;">Page 203</p> <p>1 though we covered it.</p> <p>2 Q Right. So you say they were calling on</p> <p>3 experienced opioid writers.</p> <p>4 A Mm-hmm.</p> <p>5 Q Was your field intelligence report just</p> <p>6 coming up from specialty reps?</p> <p>7 A Yes.</p> <p>8 Q Okay. These were coming up from the</p> <p>9 specialty reps. Okay.</p> <p>10 But -- so fair to say that the specialty</p> <p>11 reps, though, are saying that their customers are</p> <p>12 find -- are not finding the black box a</p> <p>13 particularly compelling selling message.</p> <p>14 A Correct.</p> <p>15 Q Okay. And that's true as well for the</p> <p>16 indication of additional safety information,</p> <p>17 right?</p> <p>18 A Correct.</p> <p>19 MR. MORRIS: Objection. Foundation.</p> <p>20 (Romaine Exhibit No. 14 was marked</p> <p>21 for identification.)</p> <p>22 BY MS. SCULLION:</p> <p>23 Q Okay. Let me -- let me hand you what's</p> <p>24 been marked as Exhibit 14.</p>	<p style="text-align: center;">Page 205</p> <p>1 in September 2006 for Opana ER?</p> <p>2 A I -- it looks familiar. I can't</p> <p>3 honestly say I do remember it from 2006.</p> <p>4 Q Okay. But you do remember this -- this</p> <p>5 campaign of "Help your patient stay ahead of pain"</p> <p>6 as the campaign -- a campaign that was used for</p> <p>7 Opana ER, right?</p> <p>8 A I -- I don't remember that specifically,</p> <p>9 but I remember we had master visual aids --</p> <p>10 Q Okay.</p> <p>11 A -- to use with our sales force.</p> <p>12 Q All right. And do you recall that there</p> <p>13 were a series of master visual aids used to help</p> <p>14 promote Opana ER?</p> <p>15 A Yes, over time.</p> <p>16 Q Okay. Do you recall there was one in</p> <p>17 2006, one in 2007 and one in 2008?</p> <p>18 A That sounds familiar.</p> <p>19 Q And they were typically launched at the</p> <p>20 national sales meeting each year?</p> <p>21 A I can't say they were honestly done at</p> <p>22 the beginning of every year, but they were -- we</p> <p>23 had master visual aids that constantly changed</p> <p>24 based on education and training.</p>

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<p>1 Q Okay.</p> <p>2 MS. SCULLION: Do we have the others?</p> <p>3 I'm just going to let you see the others</p> <p>4 as well.</p> <p>5 THE WITNESS: Okay.</p> <p>6 (Romaine Exhibit Nos. 15 and 16</p> <p>7 were marked for identification.)</p> <p>8 BY MS. SCULLION:</p> <p>9 Q I'm handing you what's marked as</p> <p>10 Exhibit 15. And Exhibit 16. If you give me a</p> <p>11 moment, I'll read the numbers into the record.</p> <p>12 So Exhibit 17 -- I apologize for</p> <p>13 starting that out of order -- Exhibit 17 is</p> <p>14 ENDO_CHI_LIT -- I apologize. I got it wrong? So</p> <p>15 16.</p> <p>16 MR. MORRIS: Yeah, we only got up to 16,</p> <p>17 I think.</p> <p>18 THE WITNESS: Yeah.</p> <p>19 MS. SCULLION: Yeah, no, I thought I</p> <p>20 definitely got it.</p> <p>21 MR. MORRIS: Okay.</p> <p>22 MS. SCULLION: So thank you.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Exhibit 16 is ENDO_CHI_LIT-00032928, and</p>	<p>1 A Yes.</p> <p>2 Q Okay. I'll represent to you our</p> <p>3 understanding is this was used in 2007 -- 2007.</p> <p>4 A Okay.</p> <p>5 Q Okay. Our understanding was that</p> <p>6 Exhibit 14 was used in 2006. 15, 2007.</p> <p>7 And then Exhibit 16, do you recognize</p> <p>8 that as another master visual aid used in</p> <p>9 connection with the promotion of Opana ER?</p> <p>10 A Yes, it looks familiar.</p> <p>11 Q Okay. And this one was represented -- I</p> <p>12 represent it was used in 2008.</p> <p>13 A I just don't recall the years in which</p> <p>14 they were used.</p> <p>15 Q Understood.</p> <p>16 MS. SCULLION: Oh, great. Thanks.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q And Erica helpfully points out to me, if</p> <p>19 you want to go to the back of Exhibit 16, at the</p> <p>20 bottom left-hand corner, you can see has a date of</p> <p>21 May 2008 under Chadds Ford, Pennsylvania.</p> <p>22 A Okay.</p> <p>23 Q Do you see that?</p> <p>24 Do you see those numbers OP -- or OP,</p>
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<p>1 it's marked E786.</p> <p>2 And Exhibit 15 is Bates-stamped a couple</p> <p>3 different numbers. ENDO-0000105. It also has a</p> <p>4 number E0049029. And those are in the lower</p> <p>5 right-hand corner.</p> <p>6 A Oh, okay. I'm sorry.</p> <p>7 Q There's a lot of numbers.</p> <p>8 A Yeah.</p> <p>9 Q There's a lot of numbers. We're just</p> <p>10 doing that for the record --</p> <p>11 A Okay.</p> <p>12 Q -- so later on someone can find it --</p> <p>13 A Yeah.</p> <p>14 Q -- and people on the phone can find it.</p> <p>15 A Okay.</p> <p>16 MR. MORRIS: You won't be tested on the</p> <p>17 numbers later.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q And let's look at Exhibit 15, which has</p> <p>20 the vault illustration on the front --</p> <p>21 A Mm-hmm.</p> <p>22 Q -- designed for durable pain control.</p> <p>23 Do you generally recognize this as a master visual</p> <p>24 aid used in connection with Opana ER?</p>	<p>1 rather, OP-0301/May 2008?</p> <p>2 A Yes.</p> <p>3 Q And that's -- that's a designation that</p> <p>4 Endo would put on its promotional terms in order</p> <p>5 to be able to track the number of -- for the item</p> <p>6 and the date on which it was authorized to be</p> <p>7 issued -- authorized to be used, rather?</p> <p>8 A I don't know. I never -- I never --</p> <p>9 Q Never looked at those.</p> <p>10 A -- paid attention to that.</p> <p>11 Q Okay. And similarly, on Exhibit 15, if</p> <p>12 you look at the very last page at the bottom, you</p> <p>13 will see that's dated November 2007. You see</p> <p>14 that?</p> <p>15 A I'm trying to catch up -- oh, it's to</p> <p>16 the right side. Okay.</p> <p>17 Q Yeah. Do you see that?</p> <p>18 A Yes.</p> <p>19 Q Okay. So that's part of our basis for</p> <p>20 understanding when these were used.</p> <p>21 And let's -- hold on one second. I got</p> <p>22 off track here. Right.</p> <p>23 So back in Exhibit 13, field</p> <p>24 intelligence report.</p>

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<p>1 A Okay.</p> <p>2 Q There's a reason I got to the MVAs. On 3 that last page, E1183.4, the third bullet point 4 down references as one of the least compelling 5 messages or data in the MVA, it says "Promised 6 info." Do you see that?</p> <p>7 A Yes. I'm sorry.</p> <p>8 Q Okay. And that was a reference to the 9 PROMISE program that Endo had put in place in 10 connection with the promotion of Opana ER, 11 correct?</p> <p>12 A I don't -- I don't recall the PROMISE 13 program.</p> <p>14 Q That's why I was going to show you the 15 MVA. If you will go to Exhibit 14 now. Probably 16 the easiest thing to do is just flip right to the 17 very last page.</p> <p>18 A Okay.</p> <p>19 Q Turn it over and see the very last page?</p> <p>20 A Oh, I've got it on -- I'm sorry.</p> <p>21 Q And this is page E1023.64. There, you 22 got it.</p> <p>23 A Got it.</p> <p>24 Q All right. And at the bottom of this</p>	<p>1 (Lunch recess.)</p> <p>2 THE VIDEOGRAPHER: The time is 3 1:55 p.m., and we're back on the record.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Welcome back, Mr. Romaine.</p> <p>6 A Thank you.</p> <p>7 Q We're still under -- you're still under 8 oath.</p> <p>9 A Yes.</p> <p>10 Q Okay.</p> <p>11 (Romaine Exhibit No. 17 was marked 12 for identification.)</p> <p>13 BY MS. SCULLION:</p> <p>14 Q Let me hand you -- sorry, what's been 15 marked Exhibit 17.</p> <p>16 A And we're done with these visuals for 17 right now?</p> <p>18 Q For now, yes. Thank you.</p> <p>19 And for the record, Exhibit 17 is marked 20 ENDO_OPIOID_MDL-00468003, and we've marked it 21 E1204.</p> <p>22 And, Mr. Romaine, this is an e-mail from 23 Alicia Logan to Javier Avalos and Jason Jones 24 dated February 12th -- sorry, February 9th, 2012.</p>
<p style="text-align: center;">Page 211</p> <p>1 page, do you see the reference to PROMISE 2 initiative?</p> <p>3 A Yes.</p> <p>4 Q The Partnership for Responsible Opioid 5 Management through Information, Support and 6 Education.</p> <p>7 A Yes.</p> <p>8 Q And seeing that, does that refresh your 9 recollection about what PROMISE was?</p> <p>10 A I remember the word "PROMISE." I just 11 don't remember anything really about it.</p> <p>12 Q Okay. Safe to say, though, that again 13 someone in the field was reporting to you in 14 November of 2006 that that was one of the least 15 compelling pieces of the MVA, correct?</p> <p>16 A Someone in the sales force said that, 17 correct.</p> <p>18 Q Okay. All right.</p> <p>19 MS. SCULLION: I was going to suggest 20 that we take a break here for lunch is a good 21 place. Is that good? All right.</p> <p>22 MR. MORRIS: That sounds good.</p> <p>23 THE VIDEOGRAPHER: The time is 12:57 24 p.m. We're going off the record.</p>	<p style="text-align: center;">Page 213</p> <p>1 The subject matter, "Pharmacies that stated recall 2 as a decline reason, refusal; prescribing 3 physician, refusal; not accepting new patients."</p> <p>4 Do you -- do you remember who Alicia -- 5 what Alicia Logan's position was? What department 6 she was in?</p> <p>7 A She -- she was in -- she -- I think she 8 was in the marketing department. She was with 9 different products, but I think at the -- at the 10 time of this document, she was in the marketing 11 department for Opana.</p> <p>12 Q Okay. And then Mr. Avalos and 13 Mr. Jones, were they in trade?</p> <p>14 A In trade.</p> <p>15 Q Okay. And trade refers to the folks who 16 deal with pharmacies and pharmacy stocking?</p> <p>17 A Mainly wholesalers, yes.</p> <p>18 Q Okay. Great. And the e-mail attaches, 19 as you see, a report that has a couple different 20 sections.</p> <p>21 A Okay.</p> <p>22 Q The first section of the report says: 23 "Pharmacies that stated recall as a decline 24 reason."</p>

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<p style="text-align: center;">Page 214</p> <p>1 A Okay.</p> <p>2 Q Second says: "Pharmacies that stated 3 refusal prescribing physician as a decline 4 reason."</p> <p>5 And my question is, is this an example 6 of information that Endo had available to it 7 concerning pharmacies that were refusing 8 prescriptions from certain prescribing physicians?</p> <p>9 A I -- I don't know. I don't recall and 10 I -- I don't know actually.</p> <p>11 Q Okay.</p> <p>12 A I don't think I've ever actually seen 13 this report before.</p> <p>14 Q Putting aside Exhibit 17, were you aware 15 at any point in time whether Endo had information 16 about pharmacies refusing to honor prescriptions 17 written by specific physicians with respect to 18 Opana?</p> <p>19 A I don't recall that.</p> <p>20 Q Do you recall it either way?</p> <p>21 A No.</p> <p>22 Q You don't recall.</p> <p>23 A No, neither way.</p> <p>24 Q Okay. Would it surprise you to know</p>	<p style="text-align: center;">Page 216</p> <p>1 somebody reported a doctor as being engaged in 2 suspected diversion, do you think it would be 3 useful to also know whether the pharmacies were 4 refusing to honor prescriptions written by that 5 doctor?</p> <p>6 A I guess I'm a little confused by that, 7 because pharmacies get prescriptions from many 8 different doctors, so I'm not sure if one doctor 9 would have an impact or not. I don't -- I don't 10 know.</p> <p>11 Q But would you want to know, for example, 12 if -- if a rep had identified a doctor that they 13 suspected was engaged in diversion was a pill 14 mill --</p> <p>15 A Okay.</p> <p>16 Q -- would you think it would be useful in 17 investigating that to look to see whether 18 pharmacies in that territory were declining to 19 honor that prescriber's prescriptions?</p> <p>20 MR. MORRIS: Objection. Form, 21 foundation.</p> <p>22 THE WITNESS: Yeah, I can't answer that 23 from my role or the reps' role. I think it -- it's probably helpful for other divisions within</p>
<p style="text-align: center;">Page 215</p> <p>1 that Endo had information about pharmacies that 2 were declining prescriptions for -- for various 3 reasons?</p> <p>4 MR. MORRIS: Objection to form.</p> <p>5 THE WITNESS: I -- I just -- I don't 6 know if I have an opinion on that one way or the 7 other.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q Okay. You mentioned earlier the process 10 by which sales reps and district managers could 11 call a compliance hotline --</p> <p>12 A Mm-hmm.</p> <p>13 Q -- to report suspected diversion. Do 14 you remember that?</p> <p>15 A Yes.</p> <p>16 Q Okay. And as part of the investigation 17 into suspected diversion, would you agree it would 18 have been useful to use information about 19 pharmacies that were declining to honor 20 prescriptions for certain prescribers?</p> <p>21 MR. MORRIS: Objection. Form, 22 foundation.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Let me put it this way: If -- if</p>	<p style="text-align: center;">Page 217</p> <p>1 the organization to have that information. BY MS. SCULLION:</p> <p>3 Q So did -- did reps have knowledge of 4 whether pharmacies were declining to -- to honor 5 prescriptions written by physicians in their 6 territory? Was that something they would have 7 known?</p> <p>8 A Not to my knowledge.</p> <p>9 Q Okay. And again, I think you said that 10 in your experience as VP of sales, certainly you 11 didn't realize that Endo had any information about 12 pharmacies declining to honor prescriptions by 13 particular doctors. You didn't know that 14 information existed?</p> <p>15 A Yeah, I -- I don't recall it existing.</p> <p>16 Q Okay. Okay. (Romaine Exhibit Nos. 18 and 19 were marked for identification.)</p> <p>17 BY MS. SCULLION:</p> <p>18 Q Let me hand you what's been marked as Exhibit 18 and 19.</p> <p>19 For the record, Exhibit 18 is Bates- stamped ENDO_OPIOID_MDL-0068400 -- is there another -- I have it cut off. I apologize.</p>

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<p style="text-align: center;">Page 218</p> <p>1 MR. MORRIS: Ours is cut off too. Let's 2 see --</p> <p>3 MS. SCULLION: We'll try to -- we'll try 4 to get the number for the record. We can look 5 that up.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q We have marked it as E966, and it is 8 Exhibit 18.</p> <p>9 And Exhibit 19, similarly, the Bates 10 number is cut off. We will get it. We have 11 marked it as E879.</p> <p>12 Mr. Romaine, do you remember earlier 13 today testifying that you did not recall reps 14 comparing Opana ER to OxyContin in the course of 15 their sales presentations, right?</p> <p>16 A Yeah, I think the way I worded it is 17 that they were instructed and -- to focus on Opana 18 and not competitors.</p> <p>19 Q Were they permitted to compare Opana to 20 OxyContin in their sales presentations?</p> <p>21 A I don't --</p> <p>22 MR. MORRIS: Objection to form.</p> <p>23 THE WITNESS: I don't recall. I do 24 remember they were instructed to focus on selling</p>	<p style="text-align: center;">Page 220</p> <p>1 itself, looking at page E966.2, and we go to the 2 row under "Needs Identification" --</p> <p>3 Do you see the second --</p> <p>4 A Yes.</p> <p>5 Q -- row down, "Needs Identification"?</p> <p>6 A Mm-hmm.</p> <p>7 Q And then I'm looking in the section of 8 that under "DM Comments." It starts with "You 9 asked some good questions." Do you see that?</p> <p>10 A Yes.</p> <p>11 Q And again, the DM comments, these would 12 then be the district manager's comments on this 13 representative's performance and coaching to the 14 representative with respect to, in this case, the 15 concept of needs identification, right?</p> <p>16 A Right.</p> <p>17 Q All right. And Mr. Goeters is coaching 18 that some of the good questions that Mr. Kasik 19 asked to uncover needs were: "How many rescue 20 meds do your patients take, and how many is too 21 many? Do they take too many Oxy ER? Those are 22 very important needs identification questions."</p> <p>23 Did I read that correctly?</p> <p>24 A You read that correctly.</p>
<p style="text-align: center;">Page 219</p> <p>1 Opana ER or Opana.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q Okay. Well, if you look at Exhibit 18, 4 Exhibit 18 is --</p> <p>5 A Okay.</p> <p>6 Q -- starts with an e-mail from Chris -- 7 is it Getters (phonetic)?</p> <p>8 A Goeters.</p> <p>9 Q Goeters. Thank you.</p> <p>10 Chris Goeters to James Kasik, May 25th, 11 2007. Subject matter, "ECR." And Mr. Goeters is 12 attaching then an E -- an ECR and skill tracker 13 for Mr. Kasik, correct?</p> <p>14 A Yes.</p> <p>15 Q And Mr. Goeters was a district manager?</p> <p>16 A A district manager.</p> <p>17 Q In which district, do you recall?</p> <p>18 A I -- he was in Texas. But I don't know 19 what geography. He might have covered more than 20 Texas.</p> <p>21 Q Fine. And Mr. Kasik was -- was one of 22 his sales representatives?</p> <p>23 A I -- I don't recall his name.</p> <p>24 Q Fair enough. If you go to the ECR</p>	<p style="text-align: center;">Page 221</p> <p>1 Q Okay. So fair to say Mr. Goeters is 2 coaching Mr. Kasik that it is a good thing to try 3 to ask the prescriber about their needs with 4 respect to Oxy ER, correct?</p> <p>5 MR. MORRIS: Objection to form.</p> <p>6 THE WITNESS: I don't know if I can make 7 that correlation or not, but I do see the writing 8 on the -- the report here.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q It's certainly what he coached the 11 witness -- sorry, excuse me -- certainly what he 12 coached the sales representative, correct?</p> <p>13 A Or what he documented here in this 14 report.</p> <p>15 Q I apologize for that. That was just a 16 brain slip.</p> <p>17 And Oxy ER is a reference to OxyContin, 18 that's your understanding?</p> <p>19 A I -- I don't know what he -- I don't 20 know that's what he was referring to.</p> <p>21 Q Would you assume that's what he's 22 referring to?</p> <p>23 A I don't like to assume.</p> <p>24 Q Okay.</p>

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<p style="text-align: center;">Page 222</p> <p>1 A So I don't know. 2 Q Did you ever call OxyContin Oxy? 3 A No. 4 Q Okay. Do you know any other drug called 5 Oxy ER? 6 A No. 7 Q And if you can go to Exhibit 19, which 8 is another ECR. This is from Andy Watson, 9 district manager -- 10 A Yes. 11 Q -- to Cedric Corbett. Do you see that? 12 A Yes. 13 Q All right. And this is dated February 14 of 2007. If you go to the second page, E879.2, in 15 the box for dialogue, and under the district 16 manager's comments, Mr. Watson's comments, he's 17 commenting on a call with Dr. Marcom yesterday. 18 And he goes on to -- he says in here, 19 the patient that they were discussing with the 20 prescriber, Dr. Marcom: "The patient was on 21 OxyContin and was using a large quantity of PRN 22 medications, and you effectively used your MVA to 23 and the opioid experienced patient data to deliver 24 a key benefit of Opana ER therapy, fewer occasions</p>	<p style="text-align: center;">Page 224</p> <p>1 Q And intended to be an accurate summary, 2 correct? 3 A I think as accurate as possible. 4 Q Okay. 5 A A lot more information obviously is 6 shared in a coaching environment versus what's 7 written in -- on the paper. 8 Q Okay. So we do know at least, though, 9 that's what's written here indicates that there 10 was a discussion about a patient on OxyContin, and 11 the representative's use then of the MVA and 12 messaging about the key benefit of Opana ER 13 therapy, fewer occasions for PRN meds because of 14 its true Q12 dosing and durability of effect, 15 that's what -- that's what we know from this 16 document -- 17 A Right. 18 Q -- with the coaching, right? 19 A Correct. 20 MR. MORRIS: Objection. Form and 21 foundation. 22 BY MS. SCULLION: 23 Q Did regional -- regional business 24 directors review the ECRs prepared by the DMs</p>
<p style="text-align: center;">Page 223</p> <p>1 for PRN meds because of its true Q12 dosing and 2 durability of effect." Correct? 3 A That's -- yes. 4 Q That's the coaching that Mr. Watson is 5 providing to the sales representative with respect 6 to a discussion of a patient that was then on 7 OxyContin, right? 8 MR. MORRIS: Objection. Form and 9 foundation. 10 THE WITNESS: It looks like that that's 11 what he wrote in the document after the -- 12 BY MS. SCULLION: 13 Q It's certainly -- 14 A -- after the call. 15 Q It's certainly -- certainly what he 16 wrote. And again, we saw earlier that ECRs were 17 intended to be an accurate summary of what the 18 district manager discussed with the 19 representative, right? 20 A They -- they were intended to be a 21 summary of what the physician -- 22 Q It intended to -- 23 A -- or what the -- what the DM discussed 24 with the representative.</p>	<p style="text-align: center;">Page 225</p> <p>1 after the fact? 2 A I -- I can say they -- they reviewed 3 some. I can only -- I can't say they actually 4 reviewed all of them. 5 Q Okay. And what was the purpose of -- of 6 them reviewing the ECRs? 7 A To overall look at, one, how -- how the 8 district manager was coaching the representative. 9 And, two, to ensure that -- to ensure if there's 10 other needs in the organization that needed to be 11 discussed with marketing to create training or, 12 you know, ongoing materials that might be 13 important for use in the field in the future. 14 Q Okay. Are you aware of any regional 15 business director reviewing either of these ECRs 16 and -- and coaching that -- that this needed to be 17 corrected, any of the messaging needed to be 18 corrected? 19 A I'm not aware of that. 20 Q Okay. 21 MS. SCULLION: Can I have E502 and 22 E1180, please. 23 (Romaine Exhibit No. 20 was marked 24 for identification.)</p>

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<p>1 MS. SCULLION: I need an extra copy too.</p> <p>2 Mine is --</p> <p>3 (Counsel conferring.)</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Let me hand you what's been marked as</p> <p>6 Exhibit 20.</p> <p>7 A Thank you.</p> <p>8 Q And it's Bates-stamped ENDO_OPIOID_</p> <p>9 MDL-04908831. And again, we've marked it in the</p> <p>10 upper right-hand corner E502.</p> <p>11 And this is an e-mail from Amy Lohr to</p> <p>12 Peter Lankau and others dated July 23rd, 2002.</p> <p>13 Subject matter "BMT Meeting Brand Strats for</p> <p>14 Review."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q Okay. And if you just go to page 502.8.</p> <p>18 I apologize. Hold on one second.</p> <p>19 I apologize. Let me take you back to</p> <p>20 502.5 to orient you to the document.</p> <p>21 A 0.5?</p> <p>22 Q It's "Brand Strategies and Budget</p> <p>23 Summary." Do you see that?</p> <p>24 A Yes.</p>	<p>1 moderately severe acute and chronic pain market?</p> <p>2 MR. MORRIS: Objection. Form and</p> <p>3 foundation.</p> <p>4 THE WITNESS: I -- I don't recall what</p> <p>5 the indication for -- for those products were at</p> <p>6 this time.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q Do you recall that -- though, that reps</p> <p>9 were promoting it for the chronic pain market?</p> <p>10 A I --</p> <p>11 MR. MORRIS: Same objection. Form and</p> <p>12 foundation.</p> <p>13 THE WITNESS: I do remember they were</p> <p>14 promoting it for -- in the pain market, but I</p> <p>15 don't remember the specific indication they were</p> <p>16 promoting it for.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q So you don't recall whether it was</p> <p>19 chronic or acute?</p> <p>20 A I -- I don't at this time.</p> <p>21 Q Do you recall at any point in time that</p> <p>22 Percocet was being promoted for use in the chronic</p> <p>23 pain market?</p> <p>24 A I -- I don't.</p>
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<p>1 Q All right. If you turn to the next</p> <p>2 page, 502.6, the first brand discussed there is</p> <p>3 Percocet, correct?</p> <p>4 A Yes.</p> <p>5 Q All right. And 502.7 is discussing</p> <p>6 Percocet key strategies, and this is with respect</p> <p>7 to -- it says in bullet point 1, "Promote Percocet</p> <p>8 7.5/325 and 10/325." Do you see that?</p> <p>9 A Yes.</p> <p>10 Q And those I think you testified earlier</p> <p>11 were strengths of Percocet that when you first</p> <p>12 joined Endo were still being promoted by sales</p> <p>13 reps, correct?</p> <p>14 A Correct.</p> <p>15 Q All right. And it says here: "The</p> <p>16 strategy -- the key strategy was promote Percocet</p> <p>17 7.5/325 and 10/325 for patient types who are</p> <p>18 likely treatment candidates to expand their usage</p> <p>19 in the moderate to moderately severe acute and</p> <p>20 chronic pain market." Do you see that?</p> <p>21 A Yes.</p> <p>22 Q And when you joined Endo and the sales</p> <p>23 reps were selling these two strengths of Percocet,</p> <p>24 were they promoting it for usage in moderate to</p>	<p>1 Q Okay. But certainly that's what is</p> <p>2 indicated here as the key strategy for Percocet,</p> <p>3 correct?</p> <p>4 A Correct.</p> <p>5 MR. MORRIS: Objection. Form and</p> <p>6 foundation.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q And similarly, if you go now to</p> <p>9 page E502.8, again, what's indicated here is that</p> <p>10 a Percocet key strategy -- it again repeats the</p> <p>11 strategy from the prior page, and it indicates</p> <p>12 examples of patient types, and one of the patient</p> <p>13 types indicated here is chronic low pain, correct?</p> <p>14 Chronic low back pain.</p> <p>15 A Yes.</p> <p>16 Q All right. And it says "the product</p> <p>17 target OxyContin," do you see that?</p> <p>18 A Yes.</p> <p>19 Q Was OxyContin a competitive product that</p> <p>20 Endo was targeting with respect to its promotion</p> <p>21 of Percocet 7.5/325 and 10/325?</p> <p>22 MR. MORRIS: Objection. Form and</p> <p>23 foundation.</p> <p>24 THE WITNESS: I don't recall at the</p>

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<p>1 time.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q But certainly that's what's indicated in</p> <p>4 the brand strat, correct?</p> <p>5 A Yes. Yes.</p> <p>6 MR. MORRIS: Objection. Form and</p> <p>7 foundation.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q What's a -- what is a brand strat?</p> <p>10 A Brand strategy.</p> <p>11 Q And in your experience at Endo, what --</p> <p>12 what was a brand strategy used for? What was the</p> <p>13 purpose of the brand strategy?</p> <p>14 A It was the strategy that the marketing</p> <p>15 team used to -- to drive the performance of a</p> <p>16 brand, their focus.</p> <p>17 Q And would that include identification of</p> <p>18 competitive products from which Endo sought to</p> <p>19 take market share, for example?</p> <p>20 MR. MORRIS: Objection. Form and</p> <p>21 foundation.</p> <p>22 THE WITNESS: I don't know because I</p> <p>23 wasn't involved in a lot of their brand strat</p> <p>24 meetings or did I receive a lot of information</p>	<p>1 Q Okay. And it -- and this document is</p> <p>2 saying that's -- this is the budget for Percocet</p> <p>3 for A&P for 2003. That's what the document says,</p> <p>4 right?</p> <p>5 A Yes.</p> <p>6 Q Okay. And that includes, at least on</p> <p>7 the first line, a budget of almost 1.5 million for</p> <p>8 sales support materials, correct?</p> <p>9 A Correct.</p> <p>10 Q And a budget of a little more than</p> <p>11 2.3 million for journal advertising, correct?</p> <p>12 A Correct.</p> <p>13 Q When you joined Endo in 2003 and were</p> <p>14 selling Percocet 7.5/325 and 10/325, did -- did</p> <p>15 you use sales support materials to do that?</p> <p>16 A The sales force did use support</p> <p>17 materials.</p> <p>18 Q And are you aware that there was journal</p> <p>19 advertising for those strengths at the time?</p> <p>20 A I can honestly say I never -- I don't</p> <p>21 think I ever saw journal advertising, but I never</p> <p>22 paid pay much attention to it.</p> <p>23 Q You didn't pay much attention. So you</p> <p>24 don't know either way.</p>
<p style="text-align: center;">Page 231</p> <p>1 from them.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q Okay. And you see that on page E502.1,</p> <p>4 the very beginning?</p> <p>5 A Yes.</p> <p>6 Q It states here that this is a 2003 brand</p> <p>7 strat.</p> <p>8 A Yes.</p> <p>9 Q So this would indicate that this was the</p> <p>10 strategy to be used in 2003, correct?</p> <p>11 A Yes.</p> <p>12 Q All right. And again, we see that -- if</p> <p>13 you go to page E502.9.</p> <p>14 A Yes.</p> <p>15 Q "Percocet 2003 A&P Budget Summary."</p> <p>16 A Yes.</p> <p>17 Q And that would be the budget for</p> <p>18 advertising and promotion of Percocet for 2003,</p> <p>19 correct?</p> <p>20 MR. MORRIS: Objection. Form and</p> <p>21 foundation.</p> <p>22 THE WITNESS: I -- my experience, A&P</p> <p>23 does stand for that.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: center;">Page 233</p> <p>1 A Right.</p> <p>2 Q Okay. All right.</p> <p>3 MS. SCULLION: Can I have E1214?</p> <p>4 (Romaine Exhibit No. 21 was marked</p> <p>5 for identification.)</p> <p>6 BY MS. SCULLION:</p> <p>7 Q I'll hand you what's marked as</p> <p>8 Exhibit 21.</p> <p>9 A Thank you.</p> <p>10 Q And it's Bates-stamped ENDO_OPIOID_</p> <p>11 MDL-04929187. And at the top right-hand corner</p> <p>12 we've marked it as E1214.1. Do you see that?</p> <p>13 A Yes.</p> <p>14 Q Would you prefer -- I can give you like</p> <p>15 the color copy. Let me switch those out.</p> <p>16 A Thank you.</p> <p>17 Q And do you recognize Exhibit 21 as an ad</p> <p>18 campaign used by Endo in connection with the</p> <p>19 promotion of Percocet 7.5/325 and 10/325?</p> <p>20 A I don't --</p> <p>21 MR. MORRIS: Objection to form.</p> <p>22 THE WITNESS: I don't recognize it.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Do you recognize it either way?</p>

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<p>1 A No.</p> <p>2 Q All right. When you joined Endo and 3 were helping to sell the 7.5/325 and 10/325 4 strengths of Percocet, was one of the conditions 5 it was promoted to treat low back pain?</p> <p>6 A I just don't recall.</p> <p>7 Q You don't recall either way?</p> <p>8 A Yeah, I don't recall.</p> <p>9 Q Okay. Just to finish up here, if you go 10 to page E1214.6.</p> <p>11 A Yes.</p> <p>12 Q And it should say "Stay on top of low 13 back pain." Do you see that?</p> <p>14 A Yes.</p> <p>15 Q And it states there: "Safe and 16 effective for patients not responding to standard 17 first-line therapy," and then you see the chart 18 underneath of that discussing double the pain 19 relief. Do you see that?</p> <p>20 A Yes.</p> <p>21 Q Just looking that over, do you recall 22 this messaging being delivered in connection with 23 the promotion of Percocet 7.5/325 and 10/325, that 24 there was an open label clinical study showing</p>	<p>1 joined.</p> <p>2 Q Do you remember this meeting?</p> <p>3 A I do.</p> <p>4 Q Okay. And subject matter, just for 5 completion of the e-mail, is "Slides from 6 Turnberry." Was there a meeting in Turnberry?</p> <p>7 A Turnberry, Florida.</p> <p>8 Q Great. And if you go to page E1180.3, 9 it references the Endo State of the Union for 10 looks like the first quarter of 2003.</p> <p>11 A Yes.</p> <p>12 Q So is this a review of the sales force 13 performance for that quarter?</p> <p>14 A For that period of time, that's what it 15 looks like.</p> <p>16 Q Okay. And if you go to E1180.4, the 17 next page, the very first product for which sales 18 performance for that quarter is reviewed is 19 Percocet 7.5/325 and Percocet 10/325, correct?</p> <p>20 MR. MORRIS: Objection. Foundation.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q It's just -- it's the first product 23 discussed.</p> <p>24 A Oh, I'm sorry. I'm looking -- I'm</p>
<p style="text-align: center;">Page 235</p> <p>1 double the pain relief?</p> <p>2 A I don't recall it.</p> <p>3 (Counsel conferring.)</p> <p>4 (Romaine Exhibit No. 22 was marked 5 for identification.)</p> <p>6 BY MS. SCULLION:</p> <p>7 Q Let me hand you what's been marked as 8 Exhibit 22. And this is Bates-stamped 9 ENDO_OPIOID_MDL-04911467, and we've stamped it as 10 E1180 in the top right-hand corner.</p> <p>11 Now, Mr. Romaine, this is an e-mail 12 from -- is it Joseph Ambref?</p> <p>13 A Yes.</p> <p>14 Q Ambref?</p> <p>15 A Yes.</p> <p>16 Q And it was to you, Mr. Wickline and -- 17 I'm sorry, it was to the Pharma DMs and specialty 18 sales force DMs, and you were cc'd, alone with 19 Mr. Wickline and Mr. Pearson, correct?</p> <p>20 A Yes.</p> <p>21 Q And this was in -- in June 2003, right 22 around the time that you joined, correct?</p> <p>23 A Yeah. In fact, this was the -- this 24 meeting is the first meeting I attended after I</p>	<p style="text-align: center;">Page 237</p> <p>1 looking at 5. It's 4? 4, yes.</p> <p>2 Q Yes. Thank you. So this is the first 3 product that's being discussed in this State of 4 the Union.</p> <p>5 A Yes.</p> <p>6 Q Okay. Let's go to E1180.6. And the 7 title of the slide is "Performance to Goal."</p> <p>8 A Yes.</p> <p>9 Q And it indicates here that specialty is 10 at 105 percent. Is that they were at 105 percent 11 of the goal for that quarter?</p> <p>12 MR. MORRIS: Objection. Form and 13 foundation.</p> <p>14 THE WITNESS: I -- I don't know, because 15 I wasn't there at that time, but based on what 16 this slide says.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q Well, you -- but you went to the 19 meeting --</p> <p>20 A I went to the meeting --</p> <p>21 Q -- where the slides were presented, 22 correct?</p> <p>23 A I was. But I don't remember the slides 24 being presented in -- you know, 15 years ago.</p>

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<p style="text-align: center;">Page 238</p> <p>1 Q Okay. So just dropping down underneath 2 of the PowerPoint in the speaker's notes, it says: 3 "Last year we began the year well ahead of the 4 demand," open parens, "launch," close parens, 5 "goals for Percocet with Tsunami." Do you see 6 that?</p> <p>7 A Yes.</p> <p>8 Q Do you recall Tsunami being an incentive 9 compensation plan in place at Endo in 2002?</p> <p>10 A I don't.</p> <p>11 MR. MORRIS: Objection to form.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Okay. All right. If you can go to 14 page 1180.22.</p> <p>15 A 80.20 --</p> <p>16 Q 80.22, in the upper right-hand corner.</p> <p>17 Or, you know what, there may be a better 18 page than that. Let me see.</p> <p>19 And this is a slide entitled "Primary 20 Action Items," and the first bullet point says: 21 "Stay on call plan."</p> <p>22 And just -- can you just briefly 23 summarize for us what a call plan was.</p> <p>24 A A call plan is the -- the physicians</p>	<p style="text-align: center;">Page 240</p> <p>1 A "High deciles" were physicians that were 2 the most experienced physicians that typically saw 3 a larger portion of patients in that therapeutic 4 class for the product that you had.</p> <p>5 Q When you say that they were -- had -- 6 tended to have more experience, was decile 7 determined by experience or just by the sales 8 prescription records for that physician?</p> <p>9 A I think it -- it was both. I think they 10 used both prescription data as well as patient 11 population data to understand that.</p> <p>12 Q Okay. So prescription data and patient 13 population data, correct?</p> <p>14 A Correct.</p> <p>15 Q But not necessarily years of experience, 16 for example.</p> <p>17 A No. No.</p> <p>18 Q Okay. And again, the bullet here says: 19 "Focused activity within high deciles."</p> <p>20 With respect to promotion of Percocet, 21 was the sales force -- the specialty sales force 22 focused on the high deciles when you joined?</p> <p>23 A Well, they were focused on all the 24 deciles that they had responsibility for.</p>
<p style="text-align: center;">Page 239</p> <p>1 that are on your -- call plan is a -- that 2 physicians in your geography that you have a 3 responsibility to call on.</p> <p>4 Q Okay. So they would be physicians 5 within say a sales rep's territory that they had 6 responsibility to call on.</p> <p>7 A Correct.</p> <p>8 Q All right. And it says: "Focused 9 activity within high deciles." Do you see that?</p> <p>10 A Yes.</p> <p>11 Q And the deciles refers to taking those 12 physicians and splitting them up into tenths 13 according to their prescribing history, correct?</p> <p>14 A My experience is, yes, deciles are based 15 on 1 through 10.</p> <p>16 Q Okay.</p> <p>17 A I'm not sure what he's referring to 18 here, but that's my experience.</p> <p>19 Q Did you refer to "high deciles" from 20 time to time when you were at Endo --</p> <p>21 A I did.</p> <p>22 Q -- as a phrase?</p> <p>23 A I did.</p> <p>24 Q What did you mean by "high deciles"?</p>	<p style="text-align: center;">Page 241</p> <p>1 Q From time to time was there an 2 encouragement to reps to focus on high deciles 3 with respect to Percocet?</p> <p>4 A Yes.</p> <p>5 Q And why was that?</p> <p>6 A I can't say in respect to Percocet, but 7 in respect to all brands --</p> <p>8 Q Fair enough.</p> <p>9 A -- to correct myself.</p> <p>10 Q And what -- why would there be -- why 11 would Endo be encouraging reps to focus on high 12 deciles?</p> <p>13 A They had the largest patient population. 14 So, historically, typically that's the area where 15 representatives are going to have the greatest 16 impact, the greatest help for -- for a particular 17 practice, physician practice.</p> <p>18 Q So, in other words, you're looking at 19 the folks who are already prescribing --</p> <p>20 A And experienced.</p> <p>21 Q -- the most, and those are going to most 22 likely be the prescribers from whom you will be 23 able to generate the most prescriptions going 24 forward.</p>

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<p>1 A Correct.</p> <p>2 Q Okay. Did you ever hear Mr. Wickline</p> <p>3 use the phrase "Fish where the fish are"?</p> <p>4 A I don't recall that.</p> <p>5 Q Okay. And if you'd just go to E1180.49.</p> <p>6 A Okay.</p> <p>7 Q And this is the slide, the title is</p> <p>8 "Grand Prix Contest." We talked about the Grand</p> <p>9 Prix contest earlier today. Do you remember that?</p> <p>10 A Yes.</p> <p>11 Q All right. And I think you said the</p> <p>12 Grand Prix was a contest that Endo did run in</p> <p>13 connection with the sales of Percocet, correct?</p> <p>14 A Correct.</p> <p>15 Q All right. And it says here, "One</p> <p>16 metric: Percocet TRx increase." Do you see that?</p> <p>17 A Yes.</p> <p>18 Q Is that -- is that accurate, to your</p> <p>19 recollection, that was the one metric used for</p> <p>20 Grand Prix?</p> <p>21 A You know, I don't remember specifically</p> <p>22 what the contest rules were. I just remember the</p> <p>23 contest -- a Grand Prix contest when I first</p> <p>24 joined the company.</p>	<p>1 A My recollection, and I'm going back 15,</p> <p>2 16 years, it was a national meeting that we had</p> <p>3 for all of our representatives. So it was a</p> <p>4 training meeting for the next period of time.</p> <p>5 Q And that would be --</p> <p>6 A Typically it was -- we did one a year.</p> <p>7 I don't know why it was done in June of that year,</p> <p>8 but we did one a year.</p> <p>9 Q Okay. So this is at the what also</p> <p>10 has been referred to the national sales meeting?</p> <p>11 A Yes.</p> <p>12 Q Thank you. That is helpful for me to</p> <p>13 orient.</p> <p>14 MS. SCULLION: And then can I have</p> <p>15 E1172.</p> <p>16 (Romaine Exhibit No. 23 was marked</p> <p>17 for identification.)</p> <p>18 BY MS. SCULLION:</p> <p>19 Q I hand you what's marked as Exhibit 23,</p> <p>20 which is Bates-stamped ENDO_OPIOID_MDL-05589327,</p> <p>21 and we've marked it E1172. And it's entitled</p> <p>22 "2003 Objectives Update, May 7th, 2003."</p> <p>23 And I just want to turn your attention</p> <p>24 to the second page of the exhibit, and the very,</p>
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<p>1 Q Okay. But this does indicate that</p> <p>2 there's just one metric, and that is increase in</p> <p>3 Percocet prescriptions, right?</p> <p>4 MR. MORRIS: Objection. Form and</p> <p>5 foundation.</p> <p>6 THE WITNESS: Based on this slide.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q That's what it says.</p> <p>9 A Yes.</p> <p>10 Q And these are the slides that were</p> <p>11 presented at this Turnberry, Florida meeting,</p> <p>12 correct?</p> <p>13 A I don't --</p> <p>14 MR. MORRIS: Objection. Form and</p> <p>15 foundation.</p> <p>16 THE WITNESS: I don't remember the</p> <p>17 slides being presented, but --</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Well, that's what the cover --</p> <p>20 A -- I see what it says.</p> <p>21 Q -- e-mail says is the slides, correct?</p> <p>22 A Correct.</p> <p>23 Q All right. And the Turnberry, Florida</p> <p>24 meeting, what was that meeting?</p>	<p>1 very last bullet point on the page, which refers</p> <p>2 to "The Endo Grand Prix contest," which we just</p> <p>3 saw a reference to in Exhibit 22, "has been rolled</p> <p>4 out beginning April 1st, 2002, and ending</p> <p>5 March 31st, 2004."</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q And then it goes on to explain:</p> <p>9 "Representatives and managers compete for prizes</p> <p>10 and the opportunity to drive one of the six -- one</p> <p>11 of six BMWs as their company car starting in</p> <p>12 mid-2004." Do you see that?</p> <p>13 A Yes.</p> <p>14 Q And -- and do you recall that that was</p> <p>15 in fact one of the prizes for Grand Prix, was the</p> <p>16 opportunity to drive one of six BMWs as a company</p> <p>17 car?</p> <p>18 A Yes.</p> <p>19 Q Okay.</p> <p>20 MS. SCULLION: Can I have 1218, and then</p> <p>21 also pull out 142, please.</p> <p>22 (Romaine Exhibit No. 24 was marked</p> <p>23 for identification.)</p> <p>24 BY MS. SCULLION:</p>

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<p style="text-align: center;">Page 246</p> <p>1 Q I'm going to hand you what's been marked 2 as Exhibit 24. And this is Bates-stamped ENDO_ 3 DATA_OPIOID_MDL- -- we're going to get the Bates 4 number. I apologize, I didn't realize these were 5 cut off.</p> <p>6 MR. MORRIS: Sometimes if it comes on 7 the screen, you can see it, so if you want to pop 8 that there.</p> <p>9 MS. SCULLION: Yeah, E1218.</p> <p>10 MR. MORRIS: Yeah.</p> <p>11 MS. SCULLION: Thank you.</p> <p>12 MR. MORRIS: So the first -- oh, what's 13 happening, I think, is there's a cover page that 14 isn't on here maybe.</p> <p>15 MS. SCULLION: No, it's a different -- 16 that's a different document. The history is 17 different. 1218 --</p> <p>18 MR. MORRIS: Oh, yeah, this one --</p> <p>19 MS. SCULLION: It's a data- -- it's a 20 datasheet. I apologize, we will get the Bates 21 numbers.</p> <p>22 Sabrina, can you keep track of which 23 ones we have to read into the record later? Thank 24 you.</p>	<p style="text-align: center;">Page 248</p> <p>1 Q Do you have an understanding of what 2 IMS_ID refers to?</p> <p>3 A I believe it stands for an ID number 4 that was assigned to a physician for tracking 5 purposes.</p> <p>6 Q Okay. And then you'll see in this 7 datasheet, it states the -- the first and last 8 names of the physicians, the street address, city, 9 state code, zip, a specialty description, the 10 product, the year, the prescription and the 11 prescription units. Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Is Exhibit 24 representative of the 14 level of detail of information you had available 15 to you at Endo with respect to prescriptions of, 16 in this case, Percocet?</p> <p>17 MR. MORRIS: Objection. Form and 18 foundation.</p> <p>19 THE WITNESS: I don't recall ever seeing 20 this data or document. I -- TRx units, is that 21 market units? I don't know what that means.</p> <p>22 MR. MORRIS: Form.</p> <p>23 MS. SCULLION: Okay. I'm not sure, and 24 I'm certainly not going to testify today, only</p>
<p style="text-align: center;">Page 247</p> <p>1 BY MS. SCULLION:</p> <p>2 Q So Exhibit 24.</p> <p>3 A No, there's no cover sheet with this 4 one.</p> <p>5 MR. MORRIS: No, no, there's 6 different --</p> <p>7 BY MS. SCULLION:</p> <p>8 Q There is not.</p> <p>9 MR. MORRIS: A different document.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q This is -- I'll represent to you this is 12 a printout of a datasheet that was produced to us 13 in this litigation --</p> <p>14 A Okay.</p> <p>15 Q -- by Endo.</p> <p>16 And my understanding of this datasheet 17 is it represents sales of Percocet in Ohio for the 18 year 2007. And I -- I just wanted to bring you to 19 the datasheet itself, and see in the upper 20 left-hand corner it says "IMS_ID"?</p> <p>21 A Mm-hmm.</p> <p>22 Q I apologize, you're going to need to say 23 "yes" and "no."</p> <p>24 A Oh, yes.</p>	<p style="text-align: center;">Page 249</p> <p>1 because that would be problematic.</p> <p>2 MR. MORRIS: You could try that for a 3 while.</p> <p>4 MS. SCULLION: No, it's not good.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q But -- so putting aside the specific 7 data, did you when you were VP of sales have this 8 level of data available to you, though, of 9 prescriptions for the products that your reps were 10 selling in the field?</p> <p>11 MR. MORRIS: Objection. Form.</p> <p>12 THE WITNESS: We had data. I never 13 looked at down to the territory level obviously, 14 but more at the national and regional levels.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q Okay. But the territory level, they had 17 this level of data?</p> <p>18 A They did have this level of data. I 19 don't know if it was in this form or not. I don't 20 recall this.</p> <p>21 Q I -- I doubt that it was. Again, 22 this -- this form was produced to us specifically 23 in this litigation, but it comes from a -- a 24 database of some sort, I understand.</p>

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<p>1 A Okay.</p> <p>2 MS. SCULLION: See, I testified.</p> <p>3 May I have E142. Thank you.</p> <p>4 (Romaine Exhibit No. 25 was marked</p> <p>5 for identification.)</p> <p>6 BY MS. SCULLION:</p> <p>7 Q Now, I'm going to hand you what's been</p> <p>8 marked as Exhibit 25. And the Bates number is</p> <p>9 ENDO_CHI_LIT-00543478, and we've marked it E142 in</p> <p>10 the top right corner of the --</p> <p>11 A Yes.</p> <p>12 Q -- PowerPoint pages.</p> <p>13 Now, Endo, as we saw, sold Percocet when</p> <p>14 you joined in 2003. We saw just now sales in</p> <p>15 2007. You're aware that Percocet had a -- a long</p> <p>16 history of -- of abuse, correct?</p> <p>17 MR. MORRIS: Objection. Form,</p> <p>18 foundation.</p> <p>19 THE WITNESS: I'm not aware of that.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Okay. Let's look to page E142.4. Which</p> <p>22 is entitled "Scheduled Drug Survey Statistics."</p> <p>23 A Okay.</p> <p>24 Q So the first bullet point states:</p>	<p>1 through medical, regulatory and legal review</p> <p>2 boards.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q Right.</p> <p>5 A So it would have to come through them as</p> <p>6 an approved piece before they could share it.</p> <p>7 Q Do you think the physicians that they</p> <p>8 were calling on would have wanted to have such an</p> <p>9 approved piece of information shared with them</p> <p>10 about the controlled substance they're prescribing</p> <p>11 to their patients?</p> <p>12 A I don't know what they would want.</p> <p>13 MR. MORRIS: Objection to form.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q Did you ever make any effort to find out</p> <p>16 whether doctors would have wanted to know about</p> <p>17 the abuse history of Percocet?</p> <p>18 A I did not. But I'm sure people in the</p> <p>19 organization were probably -- it was triaged to</p> <p>20 them, and it was handled in that way.</p> <p>21 Q To your recollection, were -- were sales</p> <p>22 reps ever given any information to provide to</p> <p>23 doctors beyond the PI about the potential for</p> <p>24 abuse of Percocet?</p>
<p style="text-align: center;">Page 251</p> <p>1 "Percocet is ranked among the top three opioids,"</p> <p>2 open parens, "out of 14," close parens, "to</p> <p>3 potentially abuse as per OAS, Opioid</p> <p>4 Attractiveness Scale, developed by a team of FDA</p> <p>5 advisors." And it's citing to the Harm Reduction</p> <p>6 Journal, February of 2006.</p> <p>7 Were you aware when you were selling</p> <p>8 Percocet that it was ranked among the top three</p> <p>9 opioids by this scale developed by a team of FDA</p> <p>10 advisors?</p> <p>11 A I don't recall that.</p> <p>12 Q Is that something you would have wanted</p> <p>13 to know when you were selling Percocet?</p> <p>14 MR. MORRIS: Objection. Form.</p> <p>15 THE WITNESS: I -- I don't know. I -- I</p> <p>16 don't know the impact it would've had.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q Do you think that the doctors on whom</p> <p>19 sales reps were calling to sell Percocet would</p> <p>20 have wanted to know about this ranking?</p> <p>21 MR. MORRIS: Objection to form.</p> <p>22 THE WITNESS: Well, to put it in</p> <p>23 context, the reps have very limited information</p> <p>24 they can share that -- and it's got to be approved</p>	<p style="text-align: center;">Page 253</p> <p>1 A I don't recall. And to probably put</p> <p>2 this in context too, when I joined the company, we</p> <p>3 were at the very end of the Percocet promotion by</p> <p>4 the sales force. So we ceased promotion, I want</p> <p>5 to say in 2004. I don't know if that was true or</p> <p>6 not. Sometime in that period of time.</p> <p>7 Q And that was after the Grand Prix</p> <p>8 contest for sales of 7.5 and 10?</p> <p>9 A Yeah, I think that ended in '04,</p> <p>10 sometime in '04, based on a previous document.</p> <p>11 Q And similarly, the next bullet point</p> <p>12 indicates: "OxyContin is the most commonly abused</p> <p>13 prescription opioid analgesic while oxycodone</p> <p>14 preparations, like Percocet, are ranked third."</p> <p>15 And they're citing to RADARS as of June 7th,</p> <p>16 2000 -- 2006.</p> <p>17 Do you see that?</p> <p>18 A Mm-hmm.</p> <p>19 Q I need a --</p> <p>20 A Yes.</p> <p>21 Q -- "yes" or "no."</p> <p>22 Did you ever look at any RADARS</p> <p>23 information when you were with Endo?</p> <p>24 A I did not.</p>

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<p>1 Q With respect to Percocet?</p> <p>2 A I did not.</p> <p>3 Q With respect to Opana?</p> <p>4 A Not that I recall.</p> <p>5 Q Do you know what RADARS is?</p> <p>6 A I don't even know the name.</p> <p>7 Q And similarly, I assume you're not aware 8 of Endo ever making any effort to provide approved 9 materials for sales reps to give to physicians 10 concerning RADARS data with respect to Percocet?</p> <p>11 A I don't recall that.</p> <p>12 Q Let's now go back and talk about Opana.</p> <p>13 A Okay.</p> <p>14 MS. SCULLION: We can take this exhibit 15 down. Thank you.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q So I think we established earlier -- and 18 again, it may help to look at this demonstrative, 19 Exhibit 4. We've been through a lot of dates at 20 this point.</p> <p>21 Do you recall that Endo launched 22 Opana ER as well as Opana IR in June of 2006, 23 correct?</p> <p>24 A Correct.</p>	<p>1 And if you start at the bottom of that 2 first page, 964.1, you will see an e-mail from 3 Demir Bingol to Catherine -- is it Logehed 4 (phonetic)?</p> <p>5 A Loughead.</p> <p>6 Q Loughead. Thank you.</p> <p>7 And that then gets forwarded on to you 8 as a cc on an e-mail going out to pharma all and 9 specialty all, and that would be all the reps, 10 correct?</p> <p>11 A Correct.</p> <p>12 Q All right. And Demir Bingol, at the 13 time he was the product manager for Opana ER; is 14 that right?</p> <p>15 A He was a product director.</p> <p>16 Q A product director. Thank you.</p> <p>17 And Mr. Bingol is writing to the -- the 18 sales force. He says: "This is an exciting time 19 for Endo as we move forward toward full 20 commercialization of the Opana brand."</p> <p>21 So really this is -- this was really 22 just the commercial launch for the Opana brand on 23 July 24th, correct?</p> <p>24 A Yes.</p>
<p>1 Q Do you recall if that was later than 2 Endo had hoped -- had hoped to actually launch it 3 earlier?</p> <p>4 A I don't recall that.</p> <p>5 Q Okay. Would it surprise you to know if 6 that was the case?</p> <p>7 MR. MORRIS: Objection to form.</p> <p>8 THE WITNESS: I don't even know if it 9 would surprise me. I just don't -- I don't 10 remember if it was due to be launched before that 11 or not.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Okay. And it's correct, isn't it, that 14 Endo launched Opana ER just using the -- the 15 package insert, right?</p> <p>16 A I don't recall that either. That 17 was in -- 12 years ago. I don't recall what 18 materials we had at the time.</p> <p>19 (Romaine Exhibit No. 25 was marked 20 for identification.)</p> <p>21 BY MS. SCULLION:</p> <p>22 Q Let me hand you what's been marked as 23 Exhibit 25. And it's Bates-stamped ENDO_OPIOID_ 24 MDL-00879677, and at the top we've marked it E964.</p>	<p>1 Q And he says in the next paragraph: "It 2 was originally intended that an enlarged version 3 of the PI would be sent to you after the cluster 4 meetings for use with your customers. However, 5 due to an unexpected post-approval request by the 6 FDA for minor revisions to the Opana and Opana ER 7 labels, the enlarged PI will now be available 8 immediately following the launch meeting in 9 Orlando. In the interim, the attached PDF Opana 10 and Opana ER package insert files are the 11 currently approved PIs and should be used to 12 facilitate product discussions with your 13 customers."</p> <p>14 So, does this refresh your recollection 15 that in July -- July 2006 when the 16 commercialization of Opana ER began, the reps were 17 using the PI?</p> <p>18 And there's a copy of it attached to 19 this Exhibit 25. Does that refresh your 20 recollection that's what the reps were using?</p> <p>21 A I don't remember specifically that. But 22 based on this data and the information I'm 23 reading, it sounds like that's what happened.</p> <p>24 Q Okay. And the PI, that discloses what</p>
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<p>1 the product has been found safe and effective to 2 treat --</p> <p>3 A It's got all the --</p> <p>4 Q -- correct?</p> <p>5 A -- information on -- on the product, 6 indication, dosing, side effect profile, et 7 cetera.</p> <p>8 Q Okay. And that's all that Endo lawfully 9 can promote the -- actively promote the product 10 for is what's in the PI, right?</p> <p>11 A Correct.</p> <p>12 MR. MORRIS: Objection. Form, 13 foundation, legal conclusion.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q Okay. And so actively making health 16 claims about the safety or efficacy of the product 17 beyond what's in -- in the PI, that would be 18 unlawful -- unlawful off-label marketing, right?</p> <p>19 MR. MORRIS: Objection. Form, 20 foundation, legal conclusion.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q It's not permitted, correct?</p> <p>23 MR. MORRIS: Same -- same objection.</p> <p>24 THE WITNESS: Yeah, I -- it's not</p>	<p>1 MR. MORRIS: Ah. I see. Got it. 2 MS. SCULLION: I apologize. 3 MR. MORRIS: I wrote it down wrong. 4 MS. SCULLION: Someone was paying 5 attention. 6 MR. MORRIS: Excellent. Thank you. 7 MS. SCULLION: So is it E964 is 26? 8 Thank you. I apologize for that. 9 BY MS. SCULLION: 10 Q All right. So Exhibit 27 we have in 11 front of you. 12 A Yes. 13 Q This is an e-mail from you to 14 Mr. Wickline on August 21st, 2006. Subject 15 matter, "Info for your meeting on Tuesday." Do 16 you see that? 17 A Yes. 18 Q And you're writing to convey to 19 Mr. Wickline a response to the question: "How 20 effectively are we able to communicate Opana's key 21 features and benefits by using only the PI and our 22 clinical study?" 23 Do you see that under your name? 24 A Yes. Mm-hmm.</p>
<p style="text-align: center;">Page 259</p> <p>1 permitted.</p> <p>2 MS. SCULLION: Can I have E1219? 3 (Romaine Exhibit Nos. 26 and 27 4 were marked for identification.)</p> <p>5 BY MS. SCULLION:</p> <p>6 Q I'll hand you what's been marked as 7 Exhibit 27.</p> <p>8 A Thank you.</p> <p>9 MS. SCULLION: Thank you. Somehow I got 10 the wrong number.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q And It's Bates-stamped ENDO_OPIOID 13 MDL-04920194, and we've marked it E1219.1.</p> <p>14 MR. MORRIS: Before -- excuse me, I am 15 confused. Do we have a 26?</p> <p>16 MS. SCULLION: Let's stop and make sure 17 then.</p> <p>18 MR. MORRIS: I'm not trying to interrupt 19 unnecessarily.</p> <p>20 MS. SCULLION: That's okay.</p> <p>21 THE WITNESS: This -- this is 26, I 22 think.</p> <p>23 MR. LOMAX: On the record, I think she 24 said 25 --</p>	<p style="text-align: center;">Page 261</p> <p>1 Q Okay. So this is a reference to 2 promoting Opana using only the PI and the clinical 3 studies, right? 4 A Correct. 5 Q Okay. And then the answer says: "DM 6 team unanimous -- unanimously agreed that the use 7 of the PI is not limiting our effectiveness. 8 Physicians are very interested in the PK and 9 clinical efficacy data contained within the PI." 10 Do you see that? 11 A Yes. 12 Q And do you recall that -- I'm sorry. 13 What was the DM team? 14 A District manager team. 15 Q So this is the district managers saying, 16 Using the PI is not limiting our effectiveness, we 17 can do that. Right? 18 A And I -- to put this in context, I think 19 it was during the period we only had the PI. 20 Q Right. 21 A Yeah. 22 Q Right. So, in other words, so the 23 district manager is saying, We can do this, we can 24 promote this product using just the PI.</p>

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<p style="text-align: right;">Page 262</p> <p>1 MR. MORRIS: Objection. Form and 2 foundation.</p> <p>3 THE WITNESS: For that period of time.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Right. It's not limiting the 6 effectiveness, correct?</p> <p>7 A For that period of time until we get 8 additional materials.</p> <p>9 Q But they agree at that point in time it 10 was not limiting their effectiveness, right?</p> <p>11 A Correct.</p> <p>12 Q Okay. As you said, then more materials 13 are getting rolled out over time, right?</p> <p>14 MS. SCULLION: So let's have E1200. 15 (Romaine Exhibit No. 28 was marked 16 for identification.)</p> <p>17 MS. SCULLION: Thank you.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q This is Exhibit 28. It's Bates-stamped 20 ENDO_OPIOID_MDL-00880262, and we've labeled it 21 E1200.</p> <p>22 Do you see this begins with an e-mail 23 from Kristin Vitanza to Catherine Loughead, and 24 cc'd to you on August 24th, 2006, correct?</p>	<p style="text-align: right;">Page 264</p> <p>1 the PROMISE initiative. Does this any better 2 refresh your recollection about what the PROMISE 3 initiative was?</p> <p>4 A No, I just saw that, but it doesn't. 5 I'm sorry.</p> <p>6 Q That's okay.</p> <p>7 And if you look at the e-mails above 8 that, Ms. Romero is writing to Mr. Wickline and 9 says: "FYI, Opana noise update."</p> <p>10 And Mr. Wickline then writes back: 11 "Noise is good. Thanks."</p> <p>12 Do you see that?</p> <p>13 A Mm-hmm.</p> <p>14 Q So noise is just -- okay, now we're 15 going -- starting to generate a little more buzz 16 around Opana ER through these various tools, 17 correct?</p> <p>18 MR. MORRIS: Objection. Form and 19 foundation.</p> <p>20 THE WITNESS: So just to put this in 21 context, if you look at the previous document we 22 talked about, it also stated that programs seem to 23 be in demand to learn more and discuss with 24 colleagues. So I think this was in -- in -- you</p>
<p style="text-align: right;">Page 263</p> <p>1 A Correct.</p> <p>2 Q All right. And this is Ms. Vitanza 3 announcing the launch of additional materials 4 beyond the PI.</p> <p>5 A Correct.</p> <p>6 Q For example, a new sales aid, correct?</p> <p>7 A Correct.</p> <p>8 Q A Pharm/alert she's announcing, right?</p> <p>9 A Correct.</p> <p>10 Q Okay. Two more down she says there is a 11 now available journal ad, right?</p> <p>12 A Correct.</p> <p>13 Q All right. Go to the next page, and 14 Ms. Vitanza indicates that: "We anticipate Opana 15 and Opana ER pens, lanyard pens and Post-It 16 notepads will be available in mid-October with 17 respect to premiums." Correct?</p> <p>18 A Correct.</p> <p>19 Q Do you recall that those premiums were 20 made available with respect to Opana and Opana ER?</p> <p>21 A They were made available.</p> <p>22 Q And they were distributed in the field?</p> <p>23 A Correct.</p> <p>24 Q And then again, there's a reference to</p>	<p style="text-align: right;">Page 265</p> <p>1 know, this was a follow-up from that is that more 2 information would be coming. Right.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q Okay. So more information is coming?</p> <p>5 A Yes.</p> <p>6 Q And that's -- that's the noise around 7 Opana?</p> <p>8 A Well, these were approved materials that 9 could be used in -- in the promotion of Opana, 10 yes.</p> <p>11 Q Understood.</p> <p>12 A Yeah.</p> <p>13 Q So these are -- these are going to help 14 support sales, correct?</p> <p>15 A Right. Like the return policy, a good 16 example. I mean we needed a return policy.</p> <p>17 Q Okay.</p> <p>18 MS. SCULLION: And then E1202.</p> <p>19 And then I need the exhibit number we 20 used for the MVA.</p> <p>21 (Counsel conferring.)</p> <p>22 (Romaine Exhibit No. 29 was marked 23 for identification.)</p> <p>24 BY MS. SCULLION:</p>

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<p style="text-align: center;">Page 266</p> <p>1 Q I'm going to hand you what's been marked 2 Exhibit 29. And Exhibit 29 is Bates-stamped 3 ENDO_OPIOID_MDL-02309518, and we've stamped it -- 4 oops, I got two documents together. This is not 5 correct.</p> <p>6 MS. SCULLION: May I have that back. I 7 apologize.</p> <p>8 MR. MORRIS: I think the one you gave me 9 actually doesn't have the --</p> <p>10 MS. SCULLION: We -- we need to take a 11 look at this document. There's like three 12 different versions going on there. So...</p> <p>13 MR. MORRIS: We've been going for about 14 an hour. Do you want to just take a quick break? 15 You can do that while you're doing that or --</p> <p>16 MS. SCULLION: Yeah, we can do that, but 17 this just needs to be a quick break, we'll fix 18 that. That's good.</p> <p>19 THE VIDEOGRAPHER: The time is 2:54 p.m. 20 We're going off the record.</p> <p>21 (Recess.)</p> <p>22 THE VIDEOGRAPHER: The time is 3:04 23 p.m., and we're back on the record.</p> <p>24 (Romaine Exhibit No. 29 was marked)</p>	<p style="text-align: center;">Page 268</p> <p>1 Q All right. He says: "With five weeks 2 to go to year end, 2500 prescriptions per week 3 appears to be a stretch."</p> <p>4 And in his -- he is then asking for 5 thoughts. He says at the end: "We have all, 6 unlike the field, staked a big chunk of IC on 7 hitting the 2500 TRx per week. What can we do to 8 help drive more traction? Getting it done while 9 doing it right." In quotation, "I am all ears."</p> <p>10 So do you remember that Mr. Kerr was 11 looking for suggestions on how to increase sales 12 to try to hit the 2500 prescriptions per week mark?</p> <p>13 A Yeah, I don't remember this specific 14 e-mail, but reading the e-mail, it seems like he's 15 asking for feedback.</p> <p>16 Q On how to try and hit this 2500 17 prescriptions per week mark?</p> <p>18 A Well, I read it more about how to 19 continue to make the launch of Opana ER 20 successful, but...</p> <p>21 Q Okay. But he does say, "We've all" -- 22 he says, "We've all, unlike the field, staked a 23 big chunk of IC." So --</p>
<p style="text-align: center;">Page 267</p> <p>1 for identification.)</p> <p>2 BY MS. SCULLION:</p> <p>3 Q Mr. Romaine, I'm going to hand you 4 what's been marked as Exhibit 29. And this is 5 Bates-stamped ENDO_OPIOID_MDL-00858402. And at 6 the bottom you will see an e-mail from David Kerr 7 to yourself, Mr. Wickline, and others. Subject 8 matter, "Forward: Opana Weekly, November 17th."</p> <p>9 Do you see that?</p> <p>10 A Yes.</p> <p>11 Q And at the time David Kerr, as you say, 12 was senior vice president, commercial business, 13 correct?</p> <p>14 A Yes.</p> <p>15 Q He was at that point Mr. Wickline's 16 boss.</p> <p>17 A Correct.</p> <p>18 Q Okay. And Mr. Kerr is commenting on the 19 report of Opana weekly prescriptions dated 20 November 17th, correct?</p> <p>21 A Correct.</p> <p>22 Q And he's noting an increase of 4 percent 23 on the Opana ER, correct?</p> <p>24 A Yes.</p>	<p style="text-align: center;">Page 269</p> <p>1 A I don't know what that means. That's -- 2 I was curious about that.</p> <p>3 Q So -- okay. Do you think IC refers 4 there to incentive compensation?</p> <p>5 A Yes.</p> <p>6 Q Okay. And I think you said this -- the 7 level of yourself and Mr. Wickline and others, 8 incentive compensation would be based on corporate 9 goals and objectives, right?</p> <p>10 A Yes. However --</p> <p>11 MR. MORRIS: Objection. Foundation.</p> <p>12 THE WITNESS: -- to put it in context, 13 I mean, there was a number of objectives and 14 expectations we had for corporate IC, which 15 Opana ER would not have been a huge portion of 16 that.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q Well, clearly Mr. Kerr is -- is 19 conveying that there's a big chunk of the IC on -- 20 staked on hitting --</p> <p>21 A Right.</p> <p>22 Q -- the mark for -- for Opana.</p> <p>23 A Right.</p> <p>24 Q Mr. Kerr would know best about that with</p>

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<p style="text-align: center;">Page 270</p> <p>1 respect to the commercial -- commercial business 2 department at the time at Endo, correct? 3 MR. MORRIS: Objection. Form and 4 foundation. 5 THE WITNESS: I -- all I know is that 6 my -- my incentive comp was based on the 7 objectives of the organization, and Opana ER is 8 one of many. 9 BY MS. SCULLION: 10 Q Okay. In response to Mr. Kerr, 11 Mr. Wickline does provide some -- some ideas, and 12 one of the things he says is, in the second 13 paragraph: "This week we are kicking off a 14 five-week context -- contest for growth in each 15 district between now and December 29th." 16 So that's an indication there's going to 17 be a contest to try to grow Opana ER sales? 18 A I just want to read the entire e-mail. 19 Q Sure. 20 A (Peruses document.) Okay. 21 Q So there's an indication that there's 22 going to be a contest to try and grow Opana ER 23 sales, correct? 24 A Correct.</p>	<p style="text-align: center;">Page 272</p> <p>1 BY MS. SCULLION: 2 Q Okay. So there's -- 3 MS. SCULLION: And then can we have the 4 CMR demonstrative. 5 BY MS. SCULLION: 6 Q Do you recall that sales did begin to 7 build for Opana ER 2007, 2008, 2009? They did 8 build over time, right? 9 A Sales did grow over that period of time. 10 Q Okay. 11 A Again, in context, compared to other 12 opioids, it was much smaller. 13 Q I understand. I'm just talking about 14 the growth for Opana ER. 15 (Romaine Exhibit No. 30 was marked 16 for identification.) 17 BY MS. SCULLION: 18 Q Let me hand you what's been marked as 19 Exhibit 30. 20 MS. SCULLION: And, Counsel, let me 21 explain what we've done here. Exhibit 30 in front 22 of the witness has a summary sheet of the CMR data 23 that was produced to us. The Bates numbers at the 24 top here, ENDO_DATA_OPIOID_MDL-8 through 19, which</p>
<p style="text-align: center;">Page 271</p> <p>1 Q All right. And he's also indicating 2 that reps are being asked to concentrate on the 3 top five customers in their territory, which he 4 calls the Fab Five, right? 5 A I'm not sure what the Fab Five refers 6 to, but -- 7 Q Well, if you go up to the first 8 paragraph -- 9 A Okay. 10 Q -- the second sentence he says: "Since 11 the completion of the meetings, we've provided 12 direction to concentrate on the top five customers 13 in each territory (Fab Five)." 14 A Yes. Okay, got you. 15 Q And that's -- so he's saying go see 16 those top five customers in each territory and to 17 target them twice per week. 18 A Correct. 19 Q All right. Okay. So there's some 20 activity happening to try to increase Opana ER 21 sales, right? 22 MR. MORRIS: Objection to form. 23 THE WITNESS: Oh, I'm sorry. Based on 24 his e-mail, that's what he's saying.</p>	<p style="text-align: center;">Page 273</p> <p>1 are each individual CMR summary sheets, behind the 2 witness's exhibit is a copy of each of those CMR 3 summary sheets. So the exhibit for the deposition 4 will be the complete set of those CMRs as well as 5 the summary. So we're just going to proceed from 6 there. 7 MR. MORRIS: Okay. I'll object to the 8 use of this demonstrative, particularly on 9 foundation and form. 10 MS. SCULLION: Okay. 11 BY MS. SCULLION: 12 Q So, Mr. Wickline, we summarized some of 13 the data. 14 A Romaine. Romaine. 15 Q I'm so sorry. 16 A That's okay. 17 Q I'm so sorry. That's terrible. 18 A He's older than I am, so... 19 Q Mr. Romaine, we've summarized for you 20 the data provided to us in this litigation with 21 respect to Opana and Opana ER net sales. The 22 information is in the sheets that are attached to 23 your Exhibit 30 -- 24 A Okay.</p>

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<p>1 Q -- if you wanted to look at them, but I 2 just really wanted to -- to look at the growth 3 over time. 4 A Okay. 5 Q So it starts -- let's look at Opana ER's 6 net sales. It starts at about 23 million. That's 7 starting midyear or so. 8 A Correct. 9 Q So it's a half year. 10 MR. MORRIS: Objection. Form and 11 foundation. 12 BY MS. SCULLION: 13 Q And in 2007, we see net sales of 66 -- 14 about 66 million, and then it more than doubles to 15 2008 to about 142 million, right? 16 MR. MORRIS: Objection. Form and 17 foundation. 18 THE WITNESS: Yeah, the report says 19 142 million. 20 BY MS. SCULLION: 21 Q Okay. And then again, 2009 further 22 increased to 172. And in 2010 were increasing up 23 to 239 million. And by 2011, it's at 384,300 -- 24 340,359. Do you see that?</p>	<p>1 MR. MORRIS: Objection. Form and 2 foundation. 3 THE WITNESS: -- I guess to put it in 4 context with the other promoted opioids, it was 5 much smaller. 6 BY MS. SCULLION: 7 Q I understand it was much smaller, but 8 that was -- that was growth that was generated 9 through the efforts -- the promotional efforts by 10 Endo, correct? 11 MR. MORRIS: Objection. Form. 12 THE WITNESS: Correct. 13 MS. SCULLION: All right. Can we have 14 1187? 15 (Romaine Exhibit No. 31 was marked 16 for identification.) 17 BY MS. SCULLION: 18 Q I'm handing you what's been marked as 19 Exhibit 31. 20 A Thank you. 21 Q And Exhibit 31 is Bates-stamped 22 END0097420, and we've marked it E1187. And this 23 is an e-mail chain. It starts with an e-mail from 24 Greg -- Pyszczymuka?</p>
<p style="text-align: center;">Page 275</p> <p>1 A I see that number. 2 Q And that's just for -- 3 MR. MORRIS: Objection. Form and 4 foundation. 5 BY MS. SCULLION: 6 Q And that's just for Opana ER. 7 So as you said, although Opana sounds 8 like it didn't meet -- make the market share that 9 Endo had hoped, it did have some pretty nice 10 growth over time -- 11 MR. MORRIS: Objection -- 12 BY MS. SCULLION: 13 Q -- correct? 14 MR. MORRIS: Objection. Form and 15 foundation. 16 THE WITNESS: It had growth over time. 17 BY MS. SCULLION: 18 Q Okay. I mean, we saw again almost 19 double sales -- more than double sales, rather, 20 from 2007 to 2008, there is a 40 percent increase 21 from 2009 to 2010, another 60 percent increase 22 from 2010 to 2011. Those are some increases to be 23 proud of, correct? 24 A Well --</p>	<p style="text-align: center;">Page 277</p> <p>1 A Pyszczymuka. 2 Q -- Pyszczymuka, dated November 3rd, 3 2011. Subject matter, "Play to Win Weekly 4 Update." 5 Do you recall the Play to Win initiative 6 in 2011? 7 A I don't. 8 MR. MORRIS: Objection. Form and 9 foundation. 10 BY MS. SCULLION: 11 Q Okay. If you go down to -- in 12 Mr. Pyszczymuka's e-mail at the bottom of the 13 page, he notes: "Opana ER" -- the very bottom -- 14 "Opana ER weekly TRx highs achieved post-Nucynta 15 ER launch." 16 Do you see that? 17 A Yes. 18 Q And he says for September 30th, the 19 sales were -- the TRx's were at an all-time high, 20 right? 21 A Yes. 22 Q And again, in the week of October 7th, 23 Opana ER weekly TRx's were at an all-time high, 24 right?</p>

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<p style="text-align: center;">Page 278</p> <p>1 A Yes.</p> <p>2 MR. MORRIS: Objection. Form and</p> <p>3 foundation.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q We talked earlier about what a sales rep</p> <p>6 does on a -- on a daily basis, right? So -- and</p> <p>7 as you said, they're going out average five days a</p> <p>8 week, they're visiting, trying to -- trying to see</p> <p>9 six prescribers.</p> <p>10 I assume that they work roughly 48 weeks</p> <p>11 a year?</p> <p>12 A Mm-hmm.</p> <p>13 Q Yes?</p> <p>14 A Yes.</p> <p>15 Q Okay. And by 2011, Endo's been</p> <p>16 promoting Opana ER for a full five years, 2007 to</p> <p>17 2011, right?</p> <p>18 A Correct.</p> <p>19 Q So that's going to be well in excess of</p> <p>20 200 actual -- 200,000 actual details being</p> <p>21 delivered during that time period, correct?</p> <p>22 MR. MORRIS: Objection. Form and</p> <p>23 foundation.</p> <p>24 THE WITNESS: Well, I would have to do</p>	<p style="text-align: center;">Page 280</p> <p>1 executing their sales as effectively as they</p> <p>2 could?</p> <p>3 A Executing the company strategy, yes.</p> <p>4 Q Okay. And the company strategy,</p> <p>5 execution was with respect to sales within your</p> <p>6 department. That was -- you were responsible for</p> <p>7 the execution of the sales, correct?</p> <p>8 A By using the approved promotional</p> <p>9 pieces.</p> <p>10 Q But through sales. It's the sales</p> <p>11 department --</p> <p>12 A Yes.</p> <p>13 Q -- that's doing that?</p> <p>14 A Yes.</p> <p>15 Q Okay. And if we look at E1243.</p> <p>16 (Romaine Exhibit No. 32 was marked</p> <p>17 for identification.)</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Do you recall that Mr. Lortie in fact</p> <p>20 commended you for your leadership in helping</p> <p>21 achieve those sales levels?</p> <p>22 Sorry, I apologize. I will hand you --</p> <p>23 do you recall Mr. Lortie commanding you for your</p> <p>24 leadership?</p>
<p style="text-align: center;">Page 279</p> <p>1 the math, but --</p> <p>2 BY MS. SCULLION:</p> <p>3 Q It's --</p> <p>4 A -- I'm assuming you're correct.</p> <p>5 Q It's a substantial number of details</p> <p>6 over that time period.</p> <p>7 And during that period, 2007 to 2011,</p> <p>8 was Opana ER -- strike that.</p> <p>9 So those are the details. You also had</p> <p>10 the lunches, the speaker series, the approved</p> <p>11 reprints, these were all the promotional efforts</p> <p>12 that were going on at this time?</p> <p>13 A That were used by the sales force.</p> <p>14 Q Okay. And 2007 to 2011, most of that</p> <p>15 period you were VP of sales, right?</p> <p>16 A Yes.</p> <p>17 Q Okay. And it was -- it was your job to</p> <p>18 make those -- make sure that the sales efforts</p> <p>19 were as successful as they could be, correct?</p> <p>20 A Well, it was to make sure that they were</p> <p>21 educated, trained effectively, and could</p> <p>22 communicate the promotional message effectively,</p> <p>23 yes.</p> <p>24 Q Okay. But they -- but they were</p>	<p style="text-align: center;">Page 281</p> <p>1 Brian Lortie was my -- my supervisor, so</p> <p>2 we had many meetings on my performance.</p> <p>3 Q Okay. Let me hand you what's been</p> <p>4 marked as Exhibit No. 32. And it's marked</p> <p>5 ENDO_OPIOID_MDL-02312040.</p> <p>6 Do you recognize Exhibit 32 as a copy of</p> <p>7 your 2009 performance coaching and development</p> <p>8 report?</p> <p>9 A I don't -- don't recognize it as a copy,</p> <p>10 but it looks like it is.</p> <p>11 Q Okay.</p> <p>12 A It's been a long time since I saw one of</p> <p>13 these.</p> <p>14 Q Okay. If you go to the second page of</p> <p>15 the exhibit, E1243.2.</p> <p>16 A .2. Okay.</p> <p>17 Q Just to orient you again, it lists your</p> <p>18 name as the employee, correct?</p> <p>19 A Correct.</p> <p>20 Q And it lists your manager as Brian</p> <p>21 Lortie, right?</p> <p>22 A That's correct.</p> <p>23 Q And it says this is -- goals and</p> <p>24 development plan were finalized on March 31st,</p>

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<p style="text-align: center;">Page 282</p> <p>1 '09, and the discussion was had on February 16th, 2 2010, correct? 3 A Correct. 4 Q So this is really reviewing your 5 performance with respect to that goal and 6 development plan from March 2009, right? 7 A Correct. 8 Q All right. And if you go to the next 9 page, E1243.3, in the bottom half of the page 10 under the box on the left side that says 11 "Year-end." Do you see that? 12 A Yes. 13 Q It starts with the revenue number and 14 ERS guidance? 15 A Oh, yes, I'm sorry. Mm-hmm. 16 Q We're in the same place? Good. 17 A Yes. 18 Q And at the bottom it says, Opana 19 franchise year-to-date, October, 566,749 20 prescriptions, 123.7 percent to plan. 21 So that's above plan for prescriptions, 22 right? 23 A Correct. 24 Q And 200 -- 230.8 million. Do you see</p>	<p style="text-align: center;">Page 284</p> <p>1 Q Okay. 2 A -- and behaviors. 3 Q Well, he goes on to say, he does comment 4 on your -- "Several points during the year, the 5 achievement of the forecast is uncertain," he 6 says, sorry, "and during these times of 7 uncertainty," he comments on your clarity of 8 thinking, focus and positive attitude, right? 9 A Yes. 10 Q And then he says: "He also demanded 11 these things from his leadership team, and that 12 this contributed to a focused, energized sales 13 team, which ultimately delivered an above-budget 14 result." Right? 15 A Yes. 16 Q So again, so he's commanding you for 17 achieving -- delivering, rather, an above-budget 18 result that year, right? 19 A I think he's commanding me for the 20 skills that I used which allowed us to achieve 21 above-plan budget performance. 22 Q Right. And part of the above-budget 23 performance was with respect to the Opana 24 franchise, the 123 --</p>
<p style="text-align: center;">Page 283</p> <p>1 that? 2 A Yes. 3 Q Okay. And then on the -- just in the 4 box next to that indicates this is Mr. Lortie's 5 comments on that performance. 6 He says: "Larry's strong leadership of 7 the pain solutions sales team through a 8 challenging year has contributed in a very 9 significant way to the success of the enterprise." 10 Would you agree that you did contribute 11 to the success of the enterprise in that year? 12 A Yes. 13 Q In a very significant way? 14 A In -- 15 MR. MORRIS: Objection. 16 THE WITNESS: -- what was asked of me. 17 MR. MORRIS: Foundation. 18 BY MS. SCULLION: 19 Q Okay. And the success of the enterprise 20 year is being measured by the sales of the 21 products within the pain solutions team, correct? 22 A Well, I think he was measuring me not 23 only through the results but also through my 24 leadership --</p>	<p style="text-align: center;">Page 285</p> <p>1 A And all the other business as well. 2 THE REPORTER: Wait, wait, wait. 3 MS. SCULLION: Sorry. 4 THE WITNESS: Oh, I'm sorry. 5 THE REPORTER: You're talking at the 6 same time. I think you need to repeat that. 7 MS. SCULLION: That's fine. 8 BY MS. SCULLION: 9 Q But part of the above-budget result was 10 with respect to the Opana franchise for which you 11 achieved 123.7 percent to plan result? 12 A Yes. But also in clarity, all the other 13 brands performed well also. 14 Q Understood. 15 So we saw the growth over time for 16 Opana ER from 2006 to 2011. And similarly, there 17 was -- there was growth for the reformulated 18 version of Opana ER, right? 19 A Correct. 20 Q All right. Now, Opana ER launched -- it 21 was approved in December of 2011, correct? 22 A I don't remember the exact date, 23 honestly. 24 Q If you look at Exhibit 4.</p>

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<p>1 A Oh, I'm sorry.</p> <p>2 Q Okay. The approval in December of 2011,</p> <p>3 right?</p> <p>4 MR. MORRIS: Objection. Form and</p> <p>5 foundation.</p> <p>6 THE WITNESS: That's what this document</p> <p>7 says, yes.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q And then it was actually commercially</p> <p>10 launched in the spring of 2012, correct?</p> <p>11 A That sounds accurate.</p> <p>12 Q Okay.</p> <p>13 MS. SCULLION: Can I have 1189?</p> <p>14 (Romaine Exhibit No. 33 was marked</p> <p>15 for identification.)</p> <p>16 BY MS. SCULLION:</p> <p>17 Q And when it launched in the spring of</p> <p>18 2012, do you recall you were trying to -- to lift</p> <p>19 sales at that point for Opana ER?</p> <p>20 MR. MORRIS: Objection. Form.</p> <p>21 THE WITNESS: I--</p> <p>22 BY MS. SCULLION:</p> <p>23 Q Do you recall that?</p> <p>24 A I recall that we had a sales number that</p>	<p>1 A Right.</p> <p>2 Q But in general, you were looking to --</p> <p>3 to lift Opana ER during this period.</p> <p>4 A Right, but I was responding back to his</p> <p>5 e-mail --</p> <p>6 Q Sure.</p> <p>7 A -- that I read below on speaker</p> <p>8 programs.</p> <p>9 Q So that was one of the ways that you</p> <p>10 were hoping to lift Opana ER sales during this</p> <p>11 period.</p> <p>12 A One of the ways to continue to support</p> <p>13 the business.</p> <p>14 Q Okay. And to support business here</p> <p>15 meant to lift Opana ER sales, right?</p> <p>16 MR. MORRIS: Objection to form.</p> <p>17 THE WITNESS: To continue to grow sales.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Okay. And then we heard your -- your</p> <p>20 voicemail earlier that during 2012, you described</p> <p>21 that there was a crisis period, and that you were</p> <p>22 being very direct with your sales management team</p> <p>23 that if the Endo sales reps could not get doctors</p> <p>24 to clinically write Opana ER, those sales reps</p>
<p style="text-align: center;">Page 287</p> <p>1 we were held accountable to.</p> <p>2 Q Okay. Let me hand you what's been</p> <p>3 marked as Exhibit 33. And it's Bates-stamped</p> <p>4 ENDO_OPIOID_MDL-00644449.</p> <p>5 And I'm looking at the top of</p> <p>6 Exhibit 33, which is your e-mail to Kenneth Price</p> <p>7 on June 24th, 2012, concerning the Opana ER</p> <p>8 speaker program update for the Midwest region. Do</p> <p>9 you see that?</p> <p>10 A I do.</p> <p>11 Q And you write to Mr. Price: "All these</p> <p>12 programs are critical to our ability to lift</p> <p>13 Opana ER." And you end with: "Please keep your</p> <p>14 teams focused on how important it is right now to</p> <p>15 get the lift."</p> <p>16 Do you see that?</p> <p>17 A Yes.</p> <p>18 Q And again, that was a reference to</p> <p>19 lifting Opana ER sales during this period, right?</p> <p>20 A Yes.</p> <p>21 Q Okay.</p> <p>22 A But this was in reference to doing</p> <p>23 speaker programs in his geography.</p> <p>24 Q Understood.</p>	<p style="text-align: center;">Page 289</p> <p>1 should no longer be with Endo, correct?</p> <p>2 MR. MORRIS: Objection to form.</p> <p>3 THE WITNESS: Yeah, I think the way it</p> <p>4 was stated is that they had to be able to be a</p> <p>5 good education and good resource and clinically</p> <p>6 provide information to physicians so they could</p> <p>7 prescribe the product if it was fit for the</p> <p>8 patient population.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q But you -- but that was because Endo was</p> <p>11 in crisis mode at that point, and you need to have</p> <p>12 the sales reps being very effective at that point,</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 MR. MORRIS: Objection to form.</p> <p>16 THE WITNESS: Because if I recall back,</p> <p>17 that was right after we had an outage and we</p> <p>18 were -- and I think we talked about this earlier,</p> <p>19 we were trying to make sure that patients who were</p> <p>20 on Opana ER were able to get Opana ER.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q Okay. And then if you can go back to</p> <p>23 Exhibit 30, which is that summary of the net</p> <p>24 sales, I want to focus now on the right-hand</p>

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<p>1 column --</p> <p>2 A Okay.</p> <p>3 Q -- which is entitled "Opana TRF ER-2."</p> <p>4 Do you see that?</p> <p>5 A Yes.</p> <p>6 Q And Opana TRF ER-2, that's referring to</p> <p>7 the reformulated version of Opana ER?</p> <p>8 MR. MORRIS: Objection. Form,</p> <p>9 foundation, and continuing objection with respect</p> <p>10 to the use of the demonstrative.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q Is that correct?</p> <p>13 A Opana -- yes.</p> <p>14 Q That's how it was referred to internally</p> <p>15 within Opana TRF ER?</p> <p>16 A I don't recall that. We referred to it</p> <p>17 as Opana with -- with INTAC technology.</p> <p>18 Q Okay. Do you recall seeing Opana TRF ER</p> <p>19 being used within Endo?</p> <p>20 A You know, I don't -- I don't</p> <p>21 specifically recall that title, but yeah.</p> <p>22 Q Okay. So then -- so looking at the --</p> <p>23 the figures, it begins in 2012.</p> <p>24 A Yes.</p>	<p>1 pharmaceutical sales when a product faces generic</p> <p>2 competition, do the branded product sales</p> <p>3 generally decline?</p> <p>4 A Yes.</p> <p>5 MR. MORRIS: Objection. Foundation.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q So there wasn't time to make too much of</p> <p>8 a -- of a track record with the reformulated</p> <p>9 version of Opana ER, but again, that's a</p> <p>10 respectable showing in terms of the sales efforts</p> <p>11 and the results, right?</p> <p>12 MR. MORRIS: Objection. Form and</p> <p>13 foundation.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q Okay. And again, these are the results</p> <p>17 from the sales force out there. They're calling</p> <p>18 on healthcare providers, they're delivering</p> <p>19 approved reprints, they're inviting people to</p> <p>20 speaker series, and that's helping to generate</p> <p>21 those sales, correct?</p> <p>22 A Yes.</p> <p>23 MS. SCULLION: Could we have E1175,</p> <p>24 please.</p>
<p style="text-align: center;">Page 291</p> <p>1 Q And you've got 221 million in net sales</p> <p>2 for 2012, and that's just for the reformulated</p> <p>3 version, correct?</p> <p>4 A Correct.</p> <p>5 Q As we said, that reformulated version,</p> <p>6 it launched sometime in the spring, so it's not</p> <p>7 even a full year, right?</p> <p>8 A Yes.</p> <p>9 Q Okay. And then in 2013, we see some</p> <p>10 growth in the sales to 222 million, correct?</p> <p>11 MR. MORRIS: Objection. Form and</p> <p>12 foundation.</p> <p>13 THE WITNESS: That's on this paper, yes.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q Okay. And I think you explained</p> <p>16 earlier, in 2013 is when a variety of products</p> <p>17 came off patent. Opana ER was one of those</p> <p>18 products that came off patent, correct?</p> <p>19 A That's correct.</p> <p>20 Q So -- and so in 2013, Opana ER began to</p> <p>21 face generic competition, correct?</p> <p>22 A I probably left by the time that</p> <p>23 happened, but -- yeah.</p> <p>24 Q Okay. In your experience in</p>	<p style="text-align: center;">Page 293</p> <p>1 (Romaine Exhibit No. 34 was marked</p> <p>2 for identification.)</p> <p>3 BY MS. SCULLION:</p> <p>4 Q I hand you what I just marked as</p> <p>5 Exhibit 34, and it's Bates-stamped ENDO_OPIOID_</p> <p>6 MDL-00869053, and we have Bates -- and we stamped</p> <p>7 it in the top right corner E1175.</p> <p>8 Mr. Romaine, if you look at the first</p> <p>9 page of Exhibit 34, do you see this is an e-mail</p> <p>10 and attachment from you to Mr. Kerr, Mr. Baglin,</p> <p>11 Mr. Bingol, and Deanne Melloy in September of 2007</p> <p>12 entitled -- or subject matter, rather, "Opana Top</p> <p>13 50 Writers"?</p> <p>14 A Yes.</p> <p>15 Q Okay. And if you'd just turn to the</p> <p>16 attachment, which begins at E1175.5. Is this a</p> <p>17 set of data that you received in September of 2007</p> <p>18 concerning the top 50 Opana ER writers for the</p> <p>19 period January 7th to July -- sorry, January '07</p> <p>20 to July '07?</p> <p>21 A I don't recall specifically receiving</p> <p>22 this, but it looks like a document I would have</p> <p>23 gotten in my position.</p> <p>24 Q Okay. Did you from time to time ask for</p>

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<p style="text-align: right;">Page 294</p> <p>1 reports of the top 50 or top other segment of -- 2 of Opana ER writers?</p> <p>3 A You know, I don't recall if I asked for 4 it or if it was provided.</p> <p>5 Q Okay. So this is information that -- 6 that was available --</p> <p>7 A Yes.</p> <p>8 Q -- to you at Endo.</p> <p>9 A Yes.</p> <p>10 Q So you could -- you could go in and say, 11 Let me see which prescribers are prescribing the 12 most at any given period for a given product. 13 That was available to you to do?</p> <p>14 A Yes.</p> <p>15 Q All right. And then if you go back to 16 the front page --</p> <p>17 A Mm-hmm.</p> <p>18 Q -- of Exhibit 34, you're explaining that 19 -- you said: "This is some very interesting 20 data." And you're looking to quantify why certain 21 physicians are jumping up in their sales -- or 22 prescriptions, rather, of Opana and starting to 23 write at a point in time. And you give an example 24 of one doctor, Dr. Plotnick, who's served by the</p>	<p style="text-align: right;">Page 296</p> <p>1 from them, correct?</p> <p>2 A Correct.</p> <p>3 Q All right. Now, if you go back to the 4 exhibit for the -- I'm sorry, the attachment to 5 the exhibit, which is the actual data for the 6 top 50.</p> <p>7 A Yes.</p> <p>8 Q Let's look at page E1175.5. There's 9 obviously a good deal of information here. You've 10 got in the left hand the information about the 11 representative, right, that's servicing the 12 doctor?</p> <p>13 A Correct.</p> <p>14 Q And the district manager, correct?</p> <p>15 A Correct.</p> <p>16 Q All right. And then for the prescriber 17 information, again, you know their name, their 18 prescriber ID, their specialty, correct?</p> <p>19 A That's correct.</p> <p>20 Q And their address, correct?</p> <p>21 A Yes.</p> <p>22 Q And then we see the column for "Monthly 23 Sales." So this is again a -- data showing monthly prescriptions, in this case for Opana ER,</p>
<p style="text-align: right;">Page 295</p> <p>1 pharma division.</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q Okay. And you say at the end: "The 5 point that we need to find is what triggered 6 individuals to start and see if there is a common 7 thread."</p> <p>8 A Right.</p> <p>9 Q Do you see that?</p> <p>10 A Yes.</p> <p>11 Q So you're trying to figure out for 12 these -- these top writers, Okay, well, what's -- 13 what's triggering them for Opana ER, because you 14 thought that might help understand how you might 15 support sales more broadly for Opana ER, correct?</p> <p>16 A Well, I think it was looking at are 17 there tools or resources that the sales force 18 might need or have and not used that somebody is 19 using that is important to the physicians that 20 we're calling on.</p> <p>21 Q Okay. And -- but you're -- you're 22 making an inquiry by looking at, Well, who's 23 writing -- who's prescribing the most? Let's look 24 at our top customers and see what we can learn</p>	<p style="text-align: right;">Page 297</p> <p>1 for each of those individual providers, correct?</p> <p>2 A Correct.</p> <p>3 Q All right. And then you have 4 information on the right-hand side that tells you 5 the total that they've written during that period, 6 correct?</p> <p>7 A Yes.</p> <p>8 Q All right. So you could tell in any 9 given period again which prescriber is writing the 10 most number of prescriptions for Opana ER, 11 correct?</p> <p>12 A Correct.</p> <p>13 Q All right. And when it says "market 14 volume," that's referring to the total 15 prescriptions for Opana ER in that given 16 provider's market?</p> <p>17 A I think what that refers to, market 18 volume is the total prescriptions of all opioids 19 in that -- for that physician has written.</p> <p>20 Q Okay. So you could also tell not only 21 how many -- how many prescriptions for Opana ER 22 the prescriber has written but for all opioids 23 during the period.</p> <p>24 A Correct. Market class.</p>

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<p style="text-align: center;">Page 298</p> <p>1 Q Okay. And when it says "share," is that 2 Opana's share of that prescriber's total market 3 volume?</p> <p>4 A That's correct. That's the way I read 5 this.</p> <p>6 Q Okay. And just looking -- stay on this 7 page, in this period -- so if I read it correctly, 8 two of the top five Opana writers served by the 9 specialty division are in Ohio, correct?</p> <p>10 A Let me -- just one second, let me 11 just --</p> <p>12 Q Sure.</p> <p>13 MR. MORRIS: Objection. Form and 14 foundation.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q I'm starting with the top is -- it says 17 Edwin Villalobos --</p> <p>18 A Yes.</p> <p>19 Q -- that gentleman is in Florida. 20 The next two are in Ohio, correct?</p> <p>21 A Correct.</p> <p>22 MR. MORRIS: Objection to form and 23 foundation.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: center;">Page 300</p> <p>1 Q It says Howard Schertzinger, right? 2 A Yes.</p> <p>3 Q Okay. So using the data available to 4 you, you would have been able to see whether a 5 prescriber's volume had changed over the course of 6 any given period. Right?</p> <p>7 A Correct. I had information available to 8 me.</p> <p>9 Q Okay. And you could have been able to 10 tell if there was an unusual spike in 11 prescriptions for any given prescriber, correct?</p> <p>12 MR. MORRIS: Objection. Form and 13 foundation.</p> <p>14 THE WITNESS: Over the month period -- 15 prior period, yes.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q Okay. You could have been able to use 18 it to look to see if there was some unusual 19 pattern in the prescribing for a particular 20 provider, correct?</p> <p>21 MR. MORRIS: Objection to form and 22 foundation, legal conclusion.</p> <p>23 THE WITNESS: At my level, though, I 24 rarely looked at -- down to that granular.</p>
<p style="text-align: center;">Page 299</p> <p>1 Q And as you say, and one is in -- one -- 2 sorry.</p> <p>3 And two are also in Florida, the top 4 five: Mr. Villalobos at the top and Mr. Scott 5 Tennenbaum is number five, correct?</p> <p>6 A That's what the report says, yes.</p> <p>7 Q Okay. And then again, if you look on 8 the next page, 1175.7, this is the top 50 Opana 9 prescribers for the period that were serviced by 10 the pharma division, correct?</p> <p>11 A Yes. Sorry, I wanted to make sure that 12 was specialty on the first.</p> <p>13 Q Sure. So this -- this page, 1175.7, 14 this is the pharma division, correct?</p> <p>15 A Correct.</p> <p>16 Q All right. And again, within the top 17 five prescribers you've got a gentleman from 18 Florida, David Hicks, and a gentleman from Ohio, 19 Howard Schertzinger, correct?</p> <p>20 MR. MORRIS: Objection. Form and 21 foundation.</p> <p>22 THE WITNESS: There is someone from Ohio 23 there, yes.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: center;">Page 301</p> <p>1 BY MS. SCULLION:</p> <p>2 Q But this is data that one could have 3 looked at to -- to look at patterns of prescribing 4 for individual doctors, right?</p> <p>5 A Correct.</p> <p>6 MR. MORRIS: Same objection.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q And similarly, because you have 9 information obviously that tells you that the 10 geographic territory in which each doctor is in, 11 you could also tell whether that doctor's 12 prescriptions were fairly high compared to other 13 prescribers in any given territory, correct?</p> <p>14 MR. MORRIS: Objection. Form.</p> <p>15 THE WITNESS: The -- just to clarify, 16 the number of prescriptions that they're writing, 17 is that what you're asking?</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Yes.</p> <p>20 A Yes, that was available.</p> <p>21 Q Okay. So you could have seen if 22 Doctor X had ten times the number of prescriptions 23 as the next highest doctor in that territory, 24 right?</p>

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<p>1 A Based on this report, yes.</p> <p>2 Q You could have done that. Okay.</p> <p>3 MS. SCULLION: Can I have E524.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q While they are getting that, and just to 6 be clear, did you ever undertake any -- any 7 analysis to see if any prescriber was suspiciously 8 prescribing too much based on information you were 9 seeing?</p> <p>10 A I don't recall that. But I know the 11 organization, the company, in marketing did that 12 at times to look and see if there was any 13 suspicious activity, and then that would have been 14 reported.</p> <p>15 Q Okay. So -- but you did not -- you did 16 not analyze it for that purpose?</p> <p>17 A I did not analyze it to that level.</p> <p>18 Q Who do you understand within marketing 19 conducted any analysis to look for anything, I 20 think you said, suspicious?</p> <p>21 A Well, I would assume -- and I shouldn't 22 use the word "assume" -- but the brand group would 23 look at that. The regional directors would look 24 at it that close, and if there was suspicion then,</p>	<p>1 A I don't recall that.</p> <p>2 Q And by suspicious pattern here, we're 3 talking about a suspected pill mill. Is that what 4 we're talking about?</p> <p>5 MR. MORRIS: Objection to form.</p> <p>6 THE WITNESS: Is that what you're 7 asking?</p> <p>8 BY MS. SCULLION:</p> <p>9 Q Yeah.</p> <p>10 A So I don't recall -- I mean, I don't 11 recall ever having those discussions.</p> <p>12 Q All right. You said also that folks 13 within brand, the brand group would have been 14 looking at data. Were they looking at data to try 15 to look for suspicious of pill mills?</p> <p>16 A I don't know why they would look at it. 17 It's probably a question you'd have to ask them.</p> <p>18 Q Okay. So you don't know if they were 19 looking at data for that purpose?</p> <p>20 A I don't know that. I know they looked 21 at data. I don't know for what purpose.</p> <p>22 Q And just to be clear, do you know 23 whether regional directors were looking at data 24 for the purpose of trying to see if there were</p>
<p style="text-align: center;">Page 303</p> <p>1 then that would be reported and handled through 2 the appropriate channels in the company.</p> <p>3 Q So let's make sure that we're talking 4 about the same thing. Start with the regional 5 directors.</p> <p>6 Would the regional directors, were they 7 required to review sales data within their region 8 to see if there was any unusual pattern?</p> <p>9 MR. MORRIS: Objection. Form and 10 foundation.</p> <p>11 THE WITNESS: I don't recall if that 12 was -- I don't recall if that was a directive, but 13 I know that they looked at the data.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q But you don't know if it was actually a 16 compliance directive?</p> <p>17 A No, I don't know.</p> <p>18 Q Did you ever have any discussions with 19 any regional directors about their review of -- of 20 data to -- to look for suspicion patterns?</p> <p>21 A I don't recall.</p> <p>22 Q Do you recall anyone ever coming to you 23 and saying, We have identified what we think is a 24 suspicious pattern?</p>	<p style="text-align: center;">Page 305</p> <p>1 suspicious -- suspicions of a pill mill?</p> <p>2 A I don't know specifically for that 3 reason. I know they looked at data.</p> <p>4 Q But none of them ever talked to you 5 about having any suspicions about a potential pill 6 mill based on their review of data, right?</p> <p>7 MR. MORRIS: Objection to form.</p> <p>8 THE WITNESS: I don't recall that.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q Okay. In your entire, you know --</p> <p>11 A Tenure.</p> <p>12 Q -- tenure with Endo, you don't ever 13 recall that?</p> <p>14 A I don't recall that.</p> <p>15 MR. MORRIS: Objection to form.</p> <p>16 MS. SCULLION: Do you have 524? Thank 17 you. (Romaine Exhibit No. 35 was marked 18 for identification.)</p> <p>19 BY MS. SCULLION:</p> <p>20 Q Let me hand you what's been marked as 21 Exhibit 35. And this is Bates-stamped 22 ENDO_OPIOID_MDL-00856807, and we've stamped it 23 E524 in the top right-hand corner.</p>

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<p style="text-align: center;">Page 306</p> <p>1 And, Mr. Romaine, I'm focusing on the 2 e-mail on the bottom half of the first page from 3 Mike Weber to the pharma DMs, cc'ing you twice, it 4 looks like. It says Larry Romaine, Larry Romaine. 5 A Mm-hmm. 6 Q Did you have more than one e-mail 7 address? 8 A No. 9 Q Just somebody typed it twice. 10 A Yeah. 11 Q Okay. And others. 12 And the subject of the e-mail is 13 "Important - Walgreens stores that have stocked 14 Opana," and this is October 20th, 2006. Do you 15 see that? 16 A Yes. 17 Q And as I understand it, Mr. Weber is 18 writing to advise the pharma DMs of a list of 19 approximately -- it says: "1500 Walgreens, high 20 opioid potential stores that have stocked Opana 21 5 milligram, Opana ER 5 milligram, and Opana ER 22 20 milligram." Is that right? 23 A Do you mind if I read -- read the 24 e-mail?</p>	<p style="text-align: center;">Page 308</p> <p>1 Q Okay. So it's not as if you have 2 prescriptions backed up, and you're saying, Okay, 3 now -- now we have the prescriptions, we can go 4 fill the Walgreens stores with Opana in order to 5 fill those prescriptions. 6 A Correct. 7 Q All right. And if you look in the 8 second paragraph, the last sentence, Mr. Weber 9 refers to "Let's show Walgreens that our Endo team 10 can pull through this product quickly." 11 Do you see that? 12 A Yes. 13 Q Did you ever discuss the concept of 14 pulling through product from Walgreens or a 15 similar store? 16 A I don't -- I don't recall those -- that 17 terminology. 18 Q Do you have any understanding about what 19 "pull through" means? 20 A Yes. 21 Q What does it mean? 22 A For not -- for a product to be stocked 23 and then be utilized by a physician, by 24 prescribing for a patient.</p>
<p style="text-align: center;">Page 307</p> <p>1 Q Please, go ahead. 2 A (Peruses document.) Okay, thank you. 3 Q So do I understand correctly that that's 4 what Mr. Weber is writing about, to advise that 5 there's approximately 1500 Walgreens, high opioid 6 potential stores that have stocked with the 7 indicated strengths of Opana and Opana ER? 8 A Yes. 9 Q All right. What's a high opioid 10 potential store, do you know? 11 A It must -- I don't recall what he's 12 referring to there, and so I shouldn't assume. 13 So, I don't know. 14 Q Okay. Now, this is stocking of these 15 stores in October 2006, and if I understand 16 correctly, the stores are being stocked before 17 prescriptions have been written for all of the 18 Opana that's being stocked in those stores, right? 19 A Can -- can you restate -- 20 Q You're putting -- putting the Opana in 21 the stores to then go out and get prescriptions, 22 correct? 23 A To begin promotion of -- of Opana ER, 24 yes.</p>	<p style="text-align: center;">Page 309</p> <p>1 Q And why is Mr. Weber saying, "Let's show 2 Walgreens that our Endo team can pull through this 3 product quickly"? Why would you need to show 4 Walgreens anything? 5 A I don't know -- 6 MR. MORRIS: Objection to form. 7 THE WITNESS: -- what he's referring to 8 here. 9 BY MS. SCULLION: 10 Q Okay. I mean, was it -- was she saying 11 that Endo had convinced Walgreens to go ahead and 12 stock this -- this product, and now we want to 13 show them that we can move the product off their 14 shelves for prescriptions? 15 A I -- 16 MR. MORRIS: Objection to form and 17 foundation. 18 THE WITNESS: I don't -- I don't know 19 what he's referring to here. 20 BY MS. SCULLION: 21 Q Okay. But was that something that -- 22 that was one of Endo's goals during this time 23 period was to try to get Opana off of the retail 24 shelves as quickly as it could after it was</p>

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<p style="text-align: center;">Page 310</p> <p>1 stocked?</p> <p>2 A Well, our -- our goal was to ensure that</p> <p>3 we had adequate stocking of the product so we</p> <p>4 could promote the product to healthcare providers.</p> <p>5 Q Okay. And was it a goal to -- to have</p> <p>6 product pulled through quickly?</p> <p>7 A I don't know if I would term it quickly,</p> <p>8 but obviously to have it stocked so that it's</p> <p>9 available.</p> <p>10 Q Okay. And remind me, at this point in</p> <p>11 time Mr. Weber's position was what?</p> <p>12 A He was the director of the pharma</p> <p>13 division.</p> <p>14 Q Thank you. I had forgotten.</p> <p>15 And he's writing to his district</p> <p>16 managers in the pharma division, right?</p> <p>17 A In the -- in the -- yes, the pharma</p> <p>18 division.</p> <p>19 Q Okay. And then in the last paragraph,</p> <p>20 second sentence, his directive -- following up on</p> <p>21 the communications from the regional directors,</p> <p>22 his directive to the pharma DMs is: "Let's get</p> <p>23 five high opioid decile MDs in each territory to</p> <p>24 try Opana ER for the first time on at least one</p>	<p style="text-align: center;">Page 312</p> <p>1 MS. SCULLION: Okay. Let's take a quick</p> <p>2 break, we'll get some documents together, and then</p> <p>3 we can try and move quickly.</p> <p>4 MR. MORRIS: Okay.</p> <p>5 THE VIDEOGRAPHER: The time is</p> <p>6 3:50 p.m., and we're going off the record.</p> <p>7 (Recess.)</p> <p>8 THE VIDEOGRAPHER: The time is 4:06 p.m.</p> <p>9 We're back on the record.</p> <p>10 (Romaine Exhibit No. 36 was marked</p> <p>11 for identification.)</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Mr. Romaine, welcome back.</p> <p>14 A Thank you.</p> <p>15 Q I hand you what's been marked as</p> <p>16 Exhibit 35, which is Bates-stamped ENDO_OPIOID_</p> <p>17 MDL-02324335. And in the lower right-hand corner,</p> <p>18 we also have our E832.</p> <p>19 MR. MORRIS: Oh, it's 36.</p> <p>20 MS. SCULLION: She has 30 -- I'm sure</p> <p>21 you're right. Erica likes to keep me on my toes.</p> <p>22 THE WITNESS: This is 35.</p> <p>23 MR. MORRIS: Yeah, so you want to --</p> <p>24 MS. SCULLION: We're going to restamp</p>
<p style="text-align: center;">Page 311</p> <p>1 patient next week." Right?</p> <p>2 A Yes, I see that.</p> <p>3 Q Okay.</p> <p>4 MR. MORRIS: Objection. Form and</p> <p>5 foundation.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q And he's referring to high opioid decile</p> <p>8 doctors in each territory, correct?</p> <p>9 MR. MORRIS: Objection. Form and</p> <p>10 foundation.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q MDs is doctors.</p> <p>13 A That's what he's written here.</p> <p>14 Q Okay. And -- and again, so that was his</p> <p>15 directive as to, Let's get the five high opioid</p> <p>16 doctors to try Opana ER for the first time on at</p> <p>17 least one patient in each territory this week.</p> <p>18 MR. MORRIS: Objection to form.</p> <p>19 THE WITNESS: That's what this statement</p> <p>20 says.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q Pretty aggressive goal, correct?</p> <p>23 MR. MORRIS: Objection to form.</p> <p>24 THE WITNESS: I -- I don't know that.</p>	<p style="text-align: center;">Page 313</p> <p>1 it. Yeah, we're going to restamp it. It's all</p> <p>2 right.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Mr. Romaine, Exhibit 36, if you look at</p> <p>6 the first page, starts with an e-mail from Vanessa</p> <p>7 Costa to Jon Smollen, and she's attaching a number</p> <p>8 of documents and she's sending them to him on</p> <p>9 April 11th, 2013.</p> <p>10 My questions are going to refer to the</p> <p>11 documents attached, not the e-mail, but you're</p> <p>12 welcome to read the e-mail if you'd like.</p> <p>13 A Okay.</p> <p>14 Q So I'm going to actually start with</p> <p>15 page 832.2, the next page.</p> <p>16 A Yes.</p> <p>17 Q It's "Call Plans and Controls."</p> <p>18 A Mm-hmm.</p> <p>19 Q We discussed call plans a little bit</p> <p>20 earlier today, and I just wanted to confirm, if</p> <p>21 you look under "Call Plans and Controls," there's</p> <p>22 a series of bullet points under the paragraph</p> <p>23 there.</p> <p>24 A Yes.</p>

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<p style="text-align: right;">Page 314</p> <p>1 Q And the fifth bullet point indicates: 2 "Opana ER. Physicians are excluded based on 3 scripts 48 or more over a 12-month period." Do 4 you see that?</p> <p>5 A Yes.</p> <p>6 Q Do you recall that there was a -- a 7 requirement of a minimum of 48 long-acting opioid 8 prescriptions over a 12-month period for a 9 physician to be included on the call plan for 10 Opana ER?</p> <p>11 A I do know there was an exclusion 12 criteria. I didn't know it was 48.</p> <p>13 Q Okay. Do you have -- but -- okay. 14 Did you know it was a script-based 15 exclusion criteria, number of scripts?</p> <p>16 A I -- I don't recall it from that period 17 of time.</p> <p>18 Q Okay. And then if you go to E832.18. 19 That in addition to the 48 -- sorry, that -- 20 although there was a 48 prescription exclusion 21 criteria, as it states on this page, that an 22 Opana ER non-target provider, one that has not met 23 the 48 prescription minimum threshold, must meet 24 at least one of the following, and it has certain</p>	<p style="text-align: right;">Page 316</p> <p>1 A Correct. 2 Q Okay. While we're in this document -- 3 it's right here -- if you could quickly turn to 4 page 0832.7, you'll see a big map. 5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Okay. If I understand correctly, this 8 is a -- a map of -- of the territories assigned to 9 reps, correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. And I see -- if you look on the 12 map where Ohio is, do you see that on the map?</p> <p>13 A Bear with me just one moment.</p> <p>14 Q It's okay. Look just below the word 15 "Chicago" and a little to the right.</p> <p>16 A Okay. Yes, I have it.</p> <p>17 Q Okay. And am I correct to understand 18 that Ohio -- every part of Ohio had at least one 19 rep serving it, if not more?</p> <p>20 A I don't know that --</p> <p>21 MR. MORRIS: Objection. Foundation.</p> <p>22 THE WITNESS: -- to be accurate. There 23 may have been geographies that because of 24 physician accounts didn't have a representative</p>
<p style="text-align: right;">Page 315</p> <p>1 criteria. So that people could be included on the 2 call plan even if they didn't meet the 48 3 prescription minimum threshold, correct?</p> <p>4 A Correct.</p> <p>5 Q All right. Do you recall that was 6 introduced after a number of years of using the 48 7 prescription minimum threshold?</p> <p>8 A I don't recall when that was -- was 9 added.</p> <p>10 Q Okay. But do you recall that it was 11 added?</p> <p>12 A I do -- it was -- there was criteria 13 added later on, I do recall that, yes.</p> <p>14 Q Okay. And that allowed then more 15 providers to be -- to be called on than under the 16 48 prescription threshold criteria, correct?</p> <p>17 MR. MORRIS: Objection to the form.</p> <p>18 THE WITNESS: I think it -- it allowed 19 for the right -- the correct physicians to be 20 added who were opioid experienced physicians.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q Okay. And as well as -- also as it says 23 here, the nurse practitioners and physician 24 assistants, correct?</p>	<p style="text-align: right;">Page 317</p> <p>1 calling on them.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q The map indicates most of Ohio is this 4 sort of light green color, correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. And if you look at the -- the key 7 to the map in the lower left-hand corner, it says 8 "Number of reps by footprint," and the light green 9 color indicates two reps.</p> <p>10 A Correct.</p> <p>11 MR. MORRIS: Objection to form and 12 foundation.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q Okay. And then other sizable chunks of 15 Ohio are this light yellow color. Do you see 16 that?</p> <p>17 A Yes, that's what the map reflects.</p> <p>18 Q Okay. And then the key indicates that 19 that means there's three reps by footprint for 20 those areas, correct?</p> <p>21 A Correct.</p> <p>22 MR. MORRIS: Objection. Form and 23 foundation.</p> <p>24 BY MS. SCULLION:</p>

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<p>1 Q Okay. Do you see any parts of Ohio on 2 this map that are -- that don't have one of the 3 colors indicated in the key for reps by footprint 4 of at least one?</p> <p>5 A I do not on this map.</p> <p>6 Q Okay.</p> <p>7 MS. SCULLION: Can we have 1215? 8 (Romaine Exhibit No. 37 was marked 9 for identification.)</p> <p>10 BY MS. SCULLION:</p> <p>11 Q I'm going to hand you what's been marked 12 as -- thank you -- Exhibit 37. And this is 13 Bates-stamped ENDO_OPIOID_MDL-01968614.</p> <p>14 And it's an e-mail from Ellen Keane to 15 Ian McConkey, copying you and Kathleen Cronshaw in 16 August of 2012, and titled "West Opana ER 17 Feedback."</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q West Opana ER refers to the western 21 region for -- sorry, the -- yeah, the western 22 region?</p> <p>23 A Correct.</p> <p>24 Q Okay. And if you go to page E1215.2.</p>	<p>1 question? 2 BY MS. SCULLION: 3 Q This is feedback from the healthcare 4 providers in this region?</p> <p>5 MR. MORRIS: Same objection.</p> <p>6 THE WITNESS: This is feedback that the 7 representatives provided their manager and then 8 provided to the region director.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q And the third bullet point under that 11 feedback refers to "Seattle speaker program, 12 August 2nd." Do you see that?</p> <p>13 A Yes.</p> <p>14 Q And that would be part of the speaker 15 program we discussed earlier as part of the 16 promotion of Opana ER?</p> <p>17 MR. MORRIS: Objection. Form and 18 foundation.</p> <p>19 THE WITNESS: I don't know that, but 20 I'm -- it looks like a speaker program, yes.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q Well, it's referring to a speaker 23 program, correct?</p> <p>24 A It's refer -- referring to a speaker</p>
Page 319	Page 321
<p>1 A Yes.</p> <p>2 Q It's a summary of feedback from the 3 western region business unit.</p> <p>4 A An overall view, is that what you're 5 looking at?</p> <p>6 Q Is a summary of, yeah, the overall view 7 of the region.</p> <p>8 A Overall view, okay.</p> <p>9 Q Is that what this is?</p> <p>10 A Yes.</p> <p>11 Q Okay. And if you go to the middle of 12 the page under the heading "Feedback from HCPs' 13 Offices," do you see that?</p> <p>14 A I -- I'm not following you. I'm sorry.</p> <p>15 Q It's okay. There's a heading that says 16 "Feedback from" --</p> <p>17 A Oh, yes, I'm sorry.</p> <p>18 Q -- "HCPs' Offices."</p> <p>19 A I was looking at the top.</p> <p>20 Q Okay. And this is feedback from the 21 healthcare providers in this region?</p> <p>22 MR. MORRIS: Objection. Form and 23 foundation.</p> <p>24 THE WITNESS: Can you repeat the</p>	<p>1 program in this document, yes.</p> <p>2 Q Okay. And the document says "Opana ER 3 Feedback," right?</p> <p>4 A Correct.</p> <p>5 Q Okay. And it describes the Seattle 6 speaker program for August 2nd that: "Dr. Jutla 7 urged the attendees not to give in to the," quote, 8 "opioid phobia," close quote, "that has taken root 9 in Washington state, but at the same time reminded 10 them of their due diligence in treating a chronic 11 pain patient with opioid therapy."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q And so Dr. Jutla was an invited speaker 15 to the speaker program in Seattle, correct?</p> <p>16 MR. MORRIS: Objection. Form and 17 foundation.</p> <p>18 THE WITNESS: I don't know who that 19 doctor is.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Okay. But this is indicating, though, 22 that Dr. Jutla did urge the attendees at that 23 program not to give into, quote, opioid phobia, 24 correct?</p>

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<p>1 MR. MORRIS: Objection. Form and 2 foundation.</p> <p>3 THE WITNESS: I see that. I just don't 4 know if that was a -- an attending physician or if 5 it was the actual speaker themselves.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q If it was the attending physician, 8 the -- the speaker programs were reviewed before 9 being presented by Endo, correct?</p> <p>10 A Yeah, they -- they went through a -- the 11 PMRB process.</p> <p>12 Q So if Dr. Jutla was the presenting 13 physician at that speaker program and did in fact 14 deliver that message not to give into, quote, 15 opioid phobia, that would have been a message that 16 would have been reviewed prior to being delivered 17 by Endo, correct?</p> <p>18 MR. MORRIS: Objection. Form and 19 foundation.</p> <p>20 THE WITNESS: I don't know that. I 21 was -- I did not sit in on the -- the educational 22 process.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Okay.</p>	<p>1 Pharmaceuticals entitled "Understanding the 2 Specialty MD and Their Use of Opioids."</p> <p>3 And if you turn to page E396.35, do you 4 see again in the speaker notes at the bottom in 5 point C --</p> <p>6 A Can -- can you just tell me the document 7 number again?</p> <p>8 Q Absolutely. So this is Exhibit 9.</p> <p>9 A Yes.</p> <p>10 Q And turn to page, in the upper 11 right-hand corner, E396.35.</p> <p>12 A .35. Okay.</p> <p>13 Q And looking in the speaker notes under 14 the presentation, looking at point C, again 15 there's a reference there to the term 16 "pseudoaddiction."</p> <p>17 Do you see that?</p> <p>18 A Yes.</p> <p>19 Q And -- and that's used twice in those 20 speaker's notes asking at the end, "How confident 21 is the audience that their customers know the 22 differences, tolerance, dependence, addiction, 23 pseudoaddiction?" Do you see that?</p> <p>24 A I do see that.</p>
<p style="text-align: center;">Page 323</p> <p>1 A What I don't know, and just to bring 2 clarity, is that that doctor, I don't know if they 3 were actually the speaker or they happened to be 4 attending and made a comment.</p> <p>5 Q I understand that you don't know. 6 That's why I'm saying if she -- if this doctor 7 were --</p> <p>8 A Oh.</p> <p>9 Q -- a presenting doctor, those comments -- 10 would have been reviewed and approved by Endo --</p> <p>11 MR. MORRIS: Objection. Form and 12 foundation.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q -- before being delivered.</p> <p>15 A I don't -- I don't know that because I 16 wasn't -- I didn't attend the reviewing committee.</p> <p>17 Q Okay. And if we can look back at 18 Exhibits 9 and 10.</p> <p>19 And we can start with Exhibit 9 when you 20 find that.</p> <p>21 A Okay. I'm there.</p> <p>22 Q So Exhibit 9, which we -- we looked at 23 earlier, is a PowerPoint presentation. It was for 24 sales training purposes only for Endo</p>	<p style="text-align: center;">Page 325</p> <p>1 Q So pseudoaddiction was a concept on 2 which Endo sales reps were trained in connection 3 with the promotion of Opana ER; is that right?</p> <p>4 MR. MORRIS: Objection. Form and 5 foundation.</p> <p>6 THE WITNESS: I don't recall that term.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q You don't recall the term 9 "pseudoaddiction" at all?</p> <p>10 A No.</p> <p>11 Q So I take it -- well, hold on. Let's go 12 to Exhibit 10 for a moment and see if this helps. 13 Exhibit 10.</p> <p>14 A Okay.</p> <p>15 Q If you go to page 247.15.</p> <p>16 A .15?</p> <p>17 Q Correct. And it says -- it's headed 18 "Definitions." Do you see that?</p> <p>19 A Yes.</p> <p>20 Q And the third definition down for -- 21 well, hold on.</p> <p>22 It says "Definitions," and the paragraph 23 before the bullet point says: "The following list 24 includes definitions of five important but</p>

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<p>1 commonly misunderstood terms." Do you see that?</p> <p>2 A Yes.</p> <p>3 Q And so this is part of the oxymorphone</p> <p>4 learning system module given to the Endo sales</p> <p>5 reps, correct? The front page?</p> <p>6 A Yes.</p> <p>7 Q Right?</p> <p>8 And Endo is training the sales reps that</p> <p>9 the definitions of the following terms are</p> <p>10 commonly misunderstood. "Abuse" is a commonly</p> <p>11 misunderstood word, that's what Endo was teaching</p> <p>12 its reps, correct?</p> <p>13 MR. MORRIS: Objection. Form and</p> <p>14 foundation.</p> <p>15 THE WITNESS: I don't recall that, but I</p> <p>16 see it's in the document.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q Same thing, "addiction," Endo is</p> <p>19 teaching its sales reps that that was a commonly</p> <p>20 misunderstood term?</p> <p>21 MR. MORRIS: Objection. Form and</p> <p>22 foundation.</p> <p>23 THE WITNESS: Again, I don't recall it,</p> <p>24 but it's in the document.</p>	<p>1 A I don't know how it was presented.</p> <p>2 Q That's what the -- the first paragraph</p> <p>3 before the bullet point says, right, "These are</p> <p>4 five definitions of five important but commonly</p> <p>5 misunderstood terms"?</p> <p>6 A Okay. Yes.</p> <p>7 Q Okay. Same thing with "physical</p> <p>8 dependence," Endo is teaching its reps that that</p> <p>9 was a commonly misunderstood term?</p> <p>10 MR. MORRIS: Objection. Form and</p> <p>11 foundation.</p> <p>12 THE WITNESS: It's in the document.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q And the same thing on the next page for</p> <p>15 "tolerance," Endo is teaching its reps that that</p> <p>16 was a commonly misunderstood term.</p> <p>17 MR. MORRIS: Objection. Form and</p> <p>18 foundation.</p> <p>19 THE WITNESS: It's in the document.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Okay. And just under the bullet point</p> <p>22 where it says "Tolerance," the next paragraph, the</p> <p>23 second and third sentences there begins: "The</p> <p>24 physician can differentiate addiction from</p>
<p style="text-align: center;">Page 327</p> <p>1 BY MS. SCULLION:</p> <p>2 Q And "pseudoaddiction" is -- is used here</p> <p>3 as well as the next bullet point. Could you read</p> <p>4 through that definition and just see if it</p> <p>5 refreshes your recollection on that term.</p> <p>6 A Okay. "A term used to describe an</p> <p>7 iatrogenic phenomenon in which a patient with</p> <p>8 undertreated pain is perceived by healthcare</p> <p>9 professionals to exhibit behaviors similar to</p> <p>10 those seen in addiction but is not truly</p> <p>11 addicted."</p> <p>12 Q Does reading that refresh your</p> <p>13 recollection about the concept of pseudoaddiction?</p> <p>14 A It -- it does not. I don't recall it.</p> <p>15 Q But as indicated in this learning</p> <p>16 module, it was a concept on which the sales reps</p> <p>17 were being trained, correct?</p> <p>18 MR. MORRIS: Objection. Form and</p> <p>19 foundation.</p> <p>20 THE WITNESS: It was -- it is in the</p> <p>21 training module.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q Okay. And it was, again, presented as a</p> <p>24 commonly misunderstood term, correct?</p>	<p style="text-align: center;">Page 329</p> <p>1 pseudoaddiction by speaking to the patient about</p> <p>2 his or her pain, and increasing the patient's</p> <p>3 opioid dose to increase pain relief."</p> <p>4 Do you see that?</p> <p>5 A I'm -- I'm trying to catch up with you.</p> <p>6 Where -- where are you?</p> <p>7 Q Sure.</p> <p>8 A Okay.</p> <p>9 Q I'm under the paragraph that begins "A</p> <p>10 consensus statement."</p> <p>11 A I see it now.</p> <p>12 Q And at the next sentence it says: "The</p> <p>13 physician can differentiate addiction from</p> <p>14 pseudoaddiction by speaking to the patient about</p> <p>15 his or her pain, and increasing the patient's</p> <p>16 opioid dose to increase pain relief."</p> <p>17 Do you see that?</p> <p>18 A Yes.</p> <p>19 Q Do you recall that was a concept on</p> <p>20 which sales reps were being trained by Endo?</p> <p>21 A I don't recall it.</p> <p>22 Q But it is in the -- the learning module,</p> <p>23 correct?</p> <p>24 A Yes.</p>

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<p>1 Q Okay. And similarly, the next sentence: 2 "Sales reps are being taught pseudoaddictive 3 behaviors, such as clock watching," open parens, 4 "counting down the time until the next dose," 5 close parens, "will resolve when the pain is 6 properly treated."</p> <p>7 That was a concept that sales reps were 8 being taught, correct?</p> <p>9 MR. MORRIS: Objection. Form and 10 foundation.</p> <p>11 THE WITNESS: It's in the document. It 12 didn't say sales representatives are -- are 13 trained on pseudo behaviors such as. It just says 14 "pseudo behaviors such as," but your point, it's 15 in --</p> <p>16 BY MS. SCULLION:</p> <p>17 Q Understood, but it's -- it's in the 18 oxymorphone learning system module delivered to 19 the sales representatives.</p> <p>20 A Yes.</p> <p>21 Q Okay.</p> <p>22 MS. SCULLION: And do you have 924?</p> <p>23 THE WITNESS: Are -- should we refile 24 these?</p>	<p>1 Fernandes to the pharma district managers for the 2 Midwest dated October 31st, 2007.</p> <p>3 A Yes.</p> <p>4 Q Do you see that?</p> <p>5 A Yes.</p> <p>6 Q And who was Mr. Fernandes?</p> <p>7 A He was a district manager in the pharma 8 group.</p> <p>9 Q Do you know what district he served?</p> <p>10 A I -- I don't know. I want to say 11 Oklahoma.</p> <p>12 Q Oh, I apologize. It's Indianapolis.</p> <p>13 A And -- well, I was close.</p> <p>14 Q It's right there.</p> <p>15 And -- and Mr. Fernandes refers to an 16 article from PainEDU.org. Do you see that, "Hey, 17 folks, below is an article from PainEDU.org"?</p> <p>18 A Yes.</p> <p>19 Q PainEDU.org, that was a website to which 20 Endo referred practitioners with respect to 21 prescribing of opioids, correct?</p> <p>22 MR. MORRIS: Objection. Foundation.</p> <p>23 THE WITNESS: I don't recall that.</p> <p>24 BY MS. SCULLION:</p>
<p>1 MR. MORRIS: Just put them on the side.</p> <p>2 MS. SCULLION: I would just put them on 3 the side for now. Thank you.</p> <p>4 THE WITNESS: Okay.</p> <p>5 (Romaine Exhibit No. 38 was marked 6 for identification.)</p> <p>7 BY MS. SCULLION:</p> <p>8 Q I'm handing you what's been marked as 9 Exhibit 38.</p> <p>10 A Thank you.</p> <p>11 Q And this is Bates-stamped --</p> <p>12 MS. SCULLION: I don't have a Bates 13 stamp number on here. Is there a Bates stamp 14 number? Thank you.</p> <p>15 MR. MORRIS: It looks like somebody -- 16 somebody wrote one in.</p> <p>17 THE WITNESS: I have one on this one. 18 Is that what you're referring to as a Bates stamp?</p> <p>19 BY MS. SCULLION:</p> <p>20 Q No. So the Bates number for this for 21 the record is ENDO_OPIOID_MDL-00773070 through 71, 22 and we've stamped it E924.</p> <p>23 Just starting at the bottom of 24 Exhibit 38, there's an e-mail there from Ashu</p>	<p>1 Q Okay. And Mr. Fernandes explains that 2 he's found an article on PainEDU.org, and one of 3 the things that's discussed is addiction, 4 pseudoaddiction, tolerance or physical dependence. 5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Okay. So again, so this is -- the 8 concept of pseudoaddiction is a concept that in 9 fact district managers were discussing in 10 connection with the promotion of opioids, and here 11 Mr. Fernandes is referring the concept on to the 12 other pharma district managers in the Midwest, 13 correct?</p> <p>14 MR. MORRIS: Objection. Form.</p> <p>15 THE WITNESS: Correct, except if you 16 read through the entire e-mail from when he says, 17 "This information is for educational purposes 18 only."</p> <p>19 BY MS. SCULLION:</p> <p>20 Q Understood. So education of -- of the 21 sales reps?</p> <p>22 A Education I'm assuming of the district 23 managers that he's sending it to.</p> <p>24 Q Okay. And education of the district</p>

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<p>1 managers on pseudoaddiction.</p> <p>2 A On --</p> <p>3 MR. MORRIS: Objection. Form.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q And the other concepts.</p> <p>6 A All those concepts.</p> <p>7 Q Okay.</p> <p>8 MS. SCULLION: Can I have E873 and 974</p> <p>9 and 914. I'll take one at a time.</p> <p>10 (Romaine Exhibit No. 39 was marked</p> <p>11 for identification.)</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Mr. Romaine, when you were VP of sales</p> <p>14 for -- for Endo, it was true, was it not, that</p> <p>15 sales reps were delivering a message to doctors</p> <p>16 that Opana ER had a low abuse profile, correct?</p> <p>17 A I don't recall that.</p> <p>18 Q Did it ever come to your attention</p> <p>19 that's --</p> <p>20 A Not that I can recall.</p> <p>21 Q Did it ever come to your attention that</p> <p>22 reps were discussing with doctors the relative</p> <p>23 risks of Opana ER versus other long-acting</p> <p>24 opioids?</p>	<p>1 questions have been received from the field</p> <p>2 regarding discussions with customers relating to</p> <p>3 the abuse potential of Opana ER." Correct?</p> <p>4 A Yes, I see that.</p> <p>5 Q And the questions that were received,</p> <p>6 those were questions that were raised because in</p> <p>7 fact those discussions were being had with</p> <p>8 customers relating to the abuse potential of</p> <p>9 Opana ER, correct?</p> <p>10 MR. MORRIS: Objection. Form.</p> <p>11 THE WITNESS: I don't know that for a</p> <p>12 fact. I -- this -- just in context, this document</p> <p>13 was created from our PMRB process, and I was asked</p> <p>14 to send it out to the field. But I don't know the</p> <p>15 context behind why it was created.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q To make sure I understand, so</p> <p>18 August 2008, you're vice president of sales --</p> <p>19 A Yes.</p> <p>20 Q -- overseeing sales of, among other</p> <p>21 things, Opana ER, correct?</p> <p>22 A Yes.</p> <p>23 Q And a memorandum is prepared entitled</p> <p>24 "Mandatory Reading." Did those kind of</p>
<p style="text-align: center;">Page 335</p> <p>1 A Well, I know they -- in their promotion</p> <p>2 they discussed the black box warning, that there's</p> <p>3 -- the addictive potential with opioids.</p> <p>4 Q But did it come to your attention that</p> <p>5 reps were discussing the potential for addiction</p> <p>6 of Opana ER versus other long-acting opioids?</p> <p>7 A I -- I don't recall that.</p> <p>8 Q Okay. Let me hand you what's been</p> <p>9 marked as Exhibit 39. And Exhibit 39 is</p> <p>10 Bates-stamped ENDO_CHI_LIT-00166187.</p> <p>11 And, Mr. Romaine, the second page of the</p> <p>12 exhibit is a -- a memorandum, I guess I would call</p> <p>13 it, from you to the Endo pharma and specialty</p> <p>14 sales teams dated August 2008, correct?</p> <p>15 A Correct.</p> <p>16 Q And the subject matter is "Approved</p> <p>17 Promotional Messages for Opana ER." Correct?</p> <p>18 A Yes, that's what it says.</p> <p>19 Q And you indicate this was a mandatory</p> <p>20 reading for the entirety of the pharma and</p> <p>21 specialty sales team, correct?</p> <p>22 A Correct.</p> <p>23 Q All right. And you explain in the very</p> <p>24 first paragraph of your memorandum: "The</p>	<p style="text-align: center;">Page 337</p> <p>1 memorandums go out from you very often, "Mandatory</p> <p>2 Reading"?</p> <p>3 A Training documents and so forth, yes.</p> <p>4 Q Okay. And it was going out to all of</p> <p>5 the reps across the country, correct?</p> <p>6 A Yes.</p> <p>7 Q And are you saying that you never</p> <p>8 inquired as to the context for this, why this memo</p> <p>9 was being sent out to --</p> <p>10 A Oh --</p> <p>11 Q -- the entirety --</p> <p>12 A -- all I'm saying this was crafted and</p> <p>13 went through our review process before it did go</p> <p>14 out.</p> <p>15 Q Understood. But did you understand why</p> <p>16 this memorandum was going out?</p> <p>17 MR. MORRIS: Objection. Form.</p> <p>18 THE WITNESS: I -- I don't know if I</p> <p>19 follow your line of questioning --</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Sure.</p> <p>22 A -- what you're asking me.</p> <p>23 Q Why was there a need to send out this</p> <p>24 memorandum at this point in time?</p>

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<p>1 A I don't know if it was specifically to 2 that point in time, but -- because we were 3 promoting an opioid which had a black box warning, 4 we routinely trained our sales force or reminded 5 our sales force on issues.</p> <p>6 Q But this -- the memorandum doesn't say 7 it's routine training. It says: "Questions have 8 been received from the field regarding discussions 9 with customers relating to the abuse potential of 10 Opana ER." Is that a true statement?</p> <p>11 A I don't recall, but I assume it is since 12 it's in the -- I shouldn't assume -- but it's in 13 this -- it's in this document.</p> <p>14 Q Okay. Well, so this is dated August of 15 2008. And if you go through your memorandum, at 16 the bottom you have "Examples of unapproved 17 promotional messages that may not be used in a 18 promotional discussion." Do you see that?</p> <p>19 A Yes.</p> <p>20 Q "These and similar messages are also 21 prohibited from use in responding to unsolicited 22 questions." Do you see that?</p> <p>23 A Yes.</p> <p>24 Q Okay. And the examples provided are:</p>	<p>1 BY MS. SCULLION: 2 Q And that was true whether they did it 3 affirmatively or whether they were responding to 4 an unsolicited question from a provider, correct? 5 A Correct. 6 Q Okay. But in fact, Endo knew that those 7 messages were being delivered to physicians, 8 correct? 9 A I -- I don't know that to be a fact. 10 (Romaine Exhibit No. 40 was marked 11 for identification.)</p> <p>12 BY MS. SCULLION: 13 Q All right. Let me hand you what's been 14 marked as Exhibit 40, which bears Bates No. 15 ENDO_OPIOID_MDL-00685033. 16 And, Mr. Romaine, Exhibit 40, if you 17 will turn to what we marked as page E974.3, 18 indicates this document is a summary of findings 19 for the Opana ATU Pulse 3 dated June 2007. Do you 20 see that? 21 A Yes. 22 Q Are you familiar with the ATU studies 23 that Endo commissioned with respect to Opana? 24 A Yes, it was market research.</p>
<p style="text-align: center;">Page 339</p> <p>1 "Opana ER has a lower abuse potential than other 2 long-acting opioids." That's the very first one, 3 right? 4 A Yes. 5 Q So reps were prohibited from conveying 6 that message either on their own or in response to 7 unsolicited questions, correct? 8 A Yes. 9 Q And similarly, they are prohibited from 10 delivering a message that Opana ER has no street 11 value. That's the next -- 12 A Correct. 13 Q -- example, right? 14 And similarly, the last example, 15 "Opana ER has less abuse liability or potential 16 abuse liability because when water is added to 17 Opana ER, the tablet turns into a gummy 18 substance." 19 Reps were not allowed to convey any of 20 those messages at any point in time to providers, 21 correct? 22 MR. MORRIS: Objection to form and 23 foundation. 24 THE WITNESS: That's correct.</p>	<p style="text-align: center;">Page 341</p> <p>1 Q Okay. You reviewed those studies as 2 they came through? 3 A I don't recall specifically documents 4 that I did review, but I did review market 5 research, yes. 6 Q Let me be more precise. Would you have 7 reviewed the summary presentation of the ATU Pulse 8 findings in June of 2007? 9 A I don't recall. 10 Q Do you think it's more likely than not 11 you did review it? 12 A I don't recall. 13 MR. MORRIS: Objection to form. 14 MS. SCULLION: Okay. Could we mark this 15 as Exhibit 41. Okay. 16 BY MS. SCULLION: 17 Q Let's go to page E974.13. Are you on 18 that page? 19 A Yes. 20 Q At the top it says: "While 21 safety/tolerability continues to be regarded as 22 the main advantage of Opana ER, especially as its 23 low abuse potential cost formulary availability 24 remain as top of mind disadvantages."</p>

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<p style="text-align: center;">Page 342</p> <p>1 Do you see that?</p> <p>2 A Yes.</p> <p>3 Q And was that true that a main advantage</p> <p>4 seen for Opana ER as of June 2007 was safety and</p> <p>5 tolerability?</p> <p>6 MR. MORRIS: Objection to form and</p> <p>7 foundation.</p> <p>8 THE WITNESS: I don't recall that.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q And this -- this indicates especially</p> <p>11 low abuse potential was seen as a main advantage</p> <p>12 for Opana ER, correct?</p> <p>13 MR. MORRIS: Objection. Form and</p> <p>14 foundation.</p> <p>15 THE WITNESS: I don't recall that</p> <p>16 information.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q The ATU studies, these were studies to</p> <p>19 go out to the providers to see what messages they</p> <p>20 were retaining with respect to Opana, correct?</p> <p>21 A It was market research with physicians,</p> <p>22 yes.</p> <p>23 Q But they were looking to see what</p> <p>24 messages were retained by those physicians?</p>	<p style="text-align: center;">Page 344</p> <p>1 potential, and that was an advantage with respect</p> <p>2 to other long-acting opioids, correct?</p> <p>3 MR. MORRIS: Objection. Form and</p> <p>4 foundation.</p> <p>5 THE WITNESS: That's what -- that's what</p> <p>6 this data reflects. But to put this in context,</p> <p>7 that's what physicians were feeding back. So</p> <p>8 where they heard that could be anywhere. It could</p> <p>9 be talking to other colleagues. I -- I don't know</p> <p>10 how to interpret this.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q Do you know if anyone went to go find</p> <p>13 out to see, Gee, is it possible that physicians</p> <p>14 are getting an impression of Opana ER as having</p> <p>15 low abuse potential compared to other long-acting</p> <p>16 opioids based on messages that the sales reps are</p> <p>17 delivering? Did anyone ever check that?</p> <p>18 A I --</p> <p>19 MR. MORRIS: Objection to form and</p> <p>20 foundation.</p> <p>21 THE WITNESS: I don't recall that, but I</p> <p>22 will say they take information like this</p> <p>23 seriously, and there would have been some</p> <p>24 investigation based on what came out of this</p>
<p style="text-align: center;">Page 343</p> <p>1 A Yes.</p> <p>2 Q Okay. And also to see what the</p> <p>3 physicians' perceptions were of Opana ER, correct?</p> <p>4 A Correct.</p> <p>5 MR. MORRIS: Objection to form and</p> <p>6 foundation.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q And if we look again at page 974.13,</p> <p>9 this report is indicating as of June 2007 that low</p> <p>10 abuse potential and safety and tolerability were</p> <p>11 regarded as the main advantage of Opana ER,</p> <p>12 according to this study, correct?</p> <p>13 A According --</p> <p>14 MR. MORRIS: Objection. Form and</p> <p>15 foundation.</p> <p>16 THE WITNESS: According to this study</p> <p>17 that I'm looking at now.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Yeah. And this is a study that Endo</p> <p>20 would have reviewed when received in June 2007?</p> <p>21 A Yes.</p> <p>22 Q Okay. So they would have seen it. That</p> <p>23 was what the study was finding was that the</p> <p>24 perception was that Opana ER had low abuse</p>	<p style="text-align: center;">Page 345</p> <p>1 information to say where did that comment come</p> <p>2 from.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q But as -- as VP of sales -- I mean, as</p> <p>5 former VP of sales, you don't recall any</p> <p>6 investigation that was triggered by the results</p> <p>7 reported here, correct?</p> <p>8 MR. MORRIS: Objection. Form,</p> <p>9 foundation.</p> <p>10 THE WITNESS: I don't recall it, but</p> <p>11 that doesn't mean it didn't exist because other</p> <p>12 departments would have been responsible for</p> <p>13 handling that, such as our compliance department.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q That would have been a pretty serious</p> <p>16 issue of noncompliance if -- if reps were</p> <p>17 delivering a clearly prohibited message about the</p> <p>18 abuse potential of a controlled substance, right?</p> <p>19 A Yes.</p> <p>20 Q You would have expected to --</p> <p>21 MR. MORRIS: Objection. Form and</p> <p>22 foundation.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q I'm sorry. You would have expected to</p>

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<p>1 have been notified if there were in fact an 2 investigation into such a serious incidence of 3 noncompliance?</p> <p>4 MR. MORRIS: Objection. Form.</p> <p>5 THE WITNESS: I wouldn't have been 6 notified until after the investigation was 7 completed.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q And were you ever notified of such an 10 investigation being completed?</p> <p>11 A I don't recall. I do recall being 12 notified of other investigations being completed. 13 I don't recall this one specifically.</p> <p>14 Q Okay.</p> <p>15 A Okay.</p> <p>16 Q So that was June 2007. Your memo goes 17 out in August of 2008. And the same message, 18 though, of low abuse liability continued to be 19 delivered after your memo went out, correct?</p> <p>20 MR. MORRIS: Objection to form.</p> <p>21 THE WITNESS: I -- I don't -- I don't 22 know that.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Well, let's look at --</p>	<p>1 the very first one: "On the most important 2 characteristics, physicians rate Opana ER 3 significantly lower than all other ER opioids on 4 insurance/formulary availability, and 5 significantly higher than all others on does not 6 have reputation for street abuse." Correct?</p> <p>7 A I see that in your document.</p> <p>8 Q Okay. So this is a report that 9 physicians are rating Opana ER as having a better 10 reputation than other ER opioids with respect to 11 reputation for street abuse, correct?</p> <p>12 MR. MORRIS: Objection. Form and 13 foundation.</p> <p>14 THE WITNESS: It's in this document. I 15 just want to put it back in context that, again, 16 these physicians, it might be their 17 interpretation, so they may believe it has to this 18 point not much street value or low street value. 19 I don't know whether -- where the information was 20 received from.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q And then the report goes on to state: 23 "Therefore, Opana ER's position in doctors' minds 24 is around the drug's lack of street value leading</p>
<p style="text-align: center;">Page 347</p> <p>1 MS. SCULLION: Can I see E914? 2 (Romaine Exhibit No. 41 was marked 3 for identification.)</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Let me hand you what's been marked as 6 Exhibit 41.</p> <p>7 A Thank you.</p> <p>8 Q Yeah. And Exhibit 41 is Bates-stamped 9 ENDO_CHI_LIT-00547543.</p> <p>10 And if you turn to the page we've marked 11 as E914.3 in the lower right-hand corner, it's the 12 first page of the presentation.</p> <p>13 A Okay.</p> <p>14 Q Do you see that?</p> <p>15 A Yes.</p> <p>16 Q And this is a final report for Opana ATU 17 W6. That means Wave 6, right?</p> <p>18 A Correct.</p> <p>19 Q All right. It's dated in December 2008, 20 so after your mandatory reading memo had gone out, 21 correct?</p> <p>22 A Correct.</p> <p>23 Q And what is reported in December of 24 2008, if you go to page E914.12, as key insights,</p>	<p style="text-align: center;">Page 349</p> <p>1 to a perception of lower potential for street 2 abuse." Correct?</p> <p>3 A I see that.</p> <p>4 MR. MORRIS: Objection. Form.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q So here we are, after you put out the 7 mandatory memo, and the message that's still 8 coming back from -- from doctors is that their 9 perception is that Opana has a lower potential for 10 street abuse than other long-acting opioids, 11 correct?</p> <p>12 MR. MORRIS: Objection to form.</p> <p>13 THE WITNESS: That's what the document 14 states.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q Okay. And you say, Well, doctors may 17 have gotten that information perception just on 18 their own, right?</p> <p>19 A I don't know. I don't know where they 20 would have gotten it.</p> <p>21 Q Right. And did you ever try to find out 22 again after reading -- would you have read this 23 report in December 2008?</p> <p>24 A I'm sure I --</p>

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<p>1 MR. MORRIS: Objection to form. 2 THE WITNESS: I don't recall, but I'm 3 sure I would have read it back in the day. 4 BY MS. SCULLION: 5 Q And did you, again, ask for an 6 investigation to find out why are doctors still 7 having this perception when we've been very clear 8 that reps should not be delivering a message of 9 lower abuse? 10 MR. MORRIS: Objection. Form, 11 foundation. 12 THE WITNESS: I don't recall it, but 13 because of the information that was shared here, 14 I'm sure there was information and investigation 15 as to why that took place, but I can't give 16 specifics. 17 BY MS. SCULLION: 18 Q So you say you're sure. I mean, do you 19 know -- do you actually know or you're just 20 assuming? 21 A I don't know. I do not know. 22 Q Okay, you don't. 23 A But I know the company took information 24 like this very seriously and would have done an</p>	<p>1 So this is reporting that the doctors 2 that were contacted as part of this study, of 3 those who said that they anticipated increasing 4 their prescriptions of Opana over the next six 5 months, said low abuse potential was a major 6 reason that they would prescribe more Opana ER, 7 correct? 8 MR. MORRIS: Objection. Form and 9 foundation. 10 THE WITNESS: That's in the document. 11 BY MS. SCULLION: 12 Q Okay. So -- and Endo knew that Opana ER 13 did not have a lower abuse potential than other 14 opioids, correct? 15 MR. MORRIS: Objection. Foundation. 16 THE WITNESS: That's in the package 17 insert. 18 BY MS. SCULLION: 19 Q Right, so it -- there is not a lower 20 abuse potential for Opana ER, correct? 21 A Correct. 22 Q And there is not a low abuse potential 23 for Opana ER, correct? 24 A Correct.</p>
<p>1 investigation. 2 Q No such investigation ever came to your 3 attention, correct? 4 A It did not, because it wouldn't have 5 gone through my department. It would have been 6 handled through our compliance group. 7 Q And if, as you said before, compliance 8 had conducted such an investigation, you would 9 have been told about it after the completion of 10 the investigation. 11 A That's correct. 12 Q You were never told about the completion 13 of any such investigation, correct? 14 MR. MORRIS: Objection. Form and 15 foundation. 16 THE WITNESS: I don't recall. 17 BY MS. SCULLION: 18 Q The next key insight states: "MDs" -- 19 that is doctors, right? 20 A Yes. 21 Q "MDs who anticipate prescribing 22 increases for Opana ER over the next six months 23 continue to mention low abuse potential and 24 efficacy as the major reasons."</p>	<p>1 Q So this report is telling you that 2 doctors are prescribing Opana ER based on 3 something that Endo knows not to be true about its 4 product, correct? 5 MR. MORRIS: Objection. Form, 6 foundation. 7 THE WITNESS: I don't know that, going 8 back to the context of this, if it was perception 9 or how that information was shared. 10 BY MS. SCULLION: 11 Q Understood. But Endo did know when it 12 received this report that doctors were out there 13 prescribing based on something about Opana ER that 14 was not true, that Endo knew not to be true, and 15 that is its abuse potential. 16 MR. MORRIS: Objection. Form, 17 foundation. 18 THE WITNESS: I don't know that they -- 19 they could -- they were prescribing because of 20 that, because there were other things such as 21 efficacy that's listed here, or reasons for them 22 to -- to use Opana ER and to treat. 23 BY MS. SCULLION: 24 Q Understood. The report says: "The</p>

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<p style="text-align: center;">Page 354</p> <p>1 major reasons mentioned are low abuse potential 2 and efficacy," correct?</p> <p>3 MR. MORRIS: Objection. Form and 4 foundation.</p> <p>5 THE WITNESS: That's in the document.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q Right. So that low abuse potential was 8 a major reason that these physicians said that 9 they would be increasing -- increasing their 10 prescriptions for Opana ER, correct?</p> <p>11 MR. MORRIS: Objection. Form, 12 foundation.</p> <p>13 THE WITNESS: What -- what you're saying 14 is in this document is correct, that the words are 15 here. Again, I don't know how the perception of a 16 physician, how they got that information. I don't 17 know the answer to that.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Wouldn't it have been of concern to Endo 20 that doctors were prescribing Opana ER based on a 21 perception of the product that Endo knew was not 22 true, and that is low abuse potential? Wouldn't 23 that be a concern?</p> <p>24 A Absolutely, it would have been a</p>	<p style="text-align: center;">Page 356</p> <p>1 THE WITNESS: I -- I can't recall 2 specifically a incidence, but I know that there 3 were always compliance investigations taking 4 place.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q But you don't recall any -- anything 7 specific to Opana ER?</p> <p>8 A I don't remember a specific.</p> <p>9 Q Okay. If you go to page E914.17, what's 10 highlighted here in this report, if you look at 11 the top, the last phrase says that: "Opana ER has 12 an opportunity to build on one of its most 13 important strengths: Low abuse potential."</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q So that was what was identified to Endo 17 as an important strength for this product, 18 correct?</p> <p>19 MR. MORRIS: Objection. Form and 20 foundation.</p> <p>21 THE WITNESS: I see that here. I'm just 22 reading through this document. I'm sorry, I'm 23 just trying to catch up.</p> <p>24 BY MS. SCULLION:</p>
<p style="text-align: center;">Page 355</p> <p>1 concern.</p> <p>2 Q And did you raise as a concern, having 3 seen this report, and say, This is terrible?</p> <p>4 A As I mentioned, I don't recall ten years 5 ago what we did, but I -- I know the company took 6 these things seriously. A lot of people looked at 7 these reports, and I'm sure an investigation took 8 place.</p> <p>9 Q But -- but you can't sitting here today 10 remember --</p> <p>11 A I can't specifically --</p> <p>12 Q -- any investigation being -- I 13 apologize.</p> <p>14 A I'm sorry.</p> <p>15 Q Please continue.</p> <p>16 A I can't specifically say ten years ago 17 that I know that an investigation took place 18 because of this.</p> <p>19 Q Do you recall any investigation into why 20 doctors were prescribing Opana ER based on a 21 perception of the product that was not true? Did 22 it ever happen at all?</p> <p>23 MR. MORRIS: Objection. Form and 24 foundation.</p>	<p style="text-align: center;">Page 357</p> <p>1 Q Sure. Do you want to read through this 2 page?</p> <p>3 A Yeah, I do want to read through this 4 page.</p> <p>5 Q Okay.</p> <p>6 A (Peruses document.) Okay. I'm sorry.</p> <p>7 Q That's okay.</p> <p>8 So this report is identifying low abuse 9 potential as one of the most important strengths 10 for Opana ER, correct?</p> <p>11 A I see that in the document.</p> <p>12 Q And it's recommending that there's an 13 opportunity to build on that strength, correct?</p> <p>14 MR. MORRIS: Objection. Form and 15 foundation.</p> <p>16 THE WITNESS: I see that in the 17 document. To keep -- put this in context too, 18 these are market research people that are just 19 relaying back what they heard from physicians.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Well, but they're relaying it to you and 22 others at Endo, correct?</p> <p>23 A Other leadership at Endo, yes.</p> <p>24 Q Okay. And having seen that</p>

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<p>1 recommendation, do you recall what your reaction 2 was to that recommendation?</p> <p>3 MR. MORRIS: Objection. Form and 4 foundation.</p> <p>5 THE WITNESS: I don't recall 6 specifically my reaction, but I'm sure what we 7 would have done is said that can't happen. That's 8 not -- it's outside of our guidelines.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q But you don't actually recall that 11 happening, right?</p> <p>12 A I don't recall that happening. But 13 hence, these things like this, which were constant 14 reminders to the sales organization that -- for 15 retraining, constantly took place.</p> <p>16 Q But sitting here today under oath, you 17 can't say that anyone at Endo rejected this 18 identification of an opportunity for Opana ER 19 based on low abuse potential.</p> <p>20 MR. MORRIS: Object --</p> <p>21 BY MS. SCULLION:</p> <p>22 Q You don't know that to be a fact that 23 anyone actually rejected that.</p> <p>24 MR. MORRIS: Objection. Form,</p>	<p>1 THE WITNESS: -- I don't remember saying 2 that. Not that it wouldn't have happened. I just 3 do not remember saying that.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q Now, you mentioned Exhibit 39, the 6 August 2008 memoranda, as an example of messages 7 that went out to the sales reps with respect to 8 the issue of discussions of abuse potential.</p> <p>9 But Endo could have sent out a Dear 10 Doctor letter to the prescribers it was servicing, 11 correct, with respect to Opana ER?</p> <p>12 A Correct.</p> <p>13 MR. MORRIS: Objection. Form, 14 foundation and legal conclusion.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q So if Endo had information that told it, 17 Wow, doctors have a misperception of an important 18 aspect of our product, and for some physicians, 19 it's a primary factor driving their prescription 20 decisions, that Endo could have said, We need to 21 correct through a Dear Doctor letter, correct?</p> <p>22 MR. MORRIS: Objection. Form, 23 foundation, legal conclusion.</p> <p>24 THE WITNESS: That could have happened,</p>
<p style="text-align: center;">Page 359</p> <p>1 foundation and argumentative.</p> <p>2 THE WITNESS: I -- I don't know that.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q Okay. And that was true even -- if you 5 look at the second bullet point on this page, 6 which again says: "Physicians who anticipate an 7 increase in prescribing of Opana ER in the next 8 six months say that their estimates are primarily 9 driven by low abuse potential and efficacy 10 factors."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q So before it had indicated a major 14 factor, now it said low abuse potential and 15 efficacy are the -- were primarily driving the 16 decisions of those who say that they will increase 17 prescribing of Opana ER in the next six months.</p> <p>18 And again, do you remember saying to 19 anyone at Endo, Well, that's very concerning; we 20 have to do something about that? Do you actually 21 remember ever doing that?</p> <p>22 A From ten years ago --</p> <p>23 MR. MORRIS: Objection. Form, 24 foundation.</p>	<p style="text-align: center;">Page 361</p> <p>1 yes.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q Did it happen?</p> <p>4 A I don't know. I don't remember.</p> <p>5 Q Do you ever recall it happening?</p> <p>6 A I don't recall.</p> <p>7 Q I will tell you we haven't seen that 8 letter produced in this case, and we definitely 9 asked for it.</p> <p>10 Do you recall any disciplinary action 11 being taken against anyone in the sales department 12 for delivering a message to healthcare providers 13 that Opana ER has low abuse potential?</p> <p>14 A I don't recall that specific issue. I 15 do recall disciplinary actions against the sales 16 force.</p> <p>17 Q What disciplinary actions do you recall?</p> <p>18 A Termination.</p> <p>19 Q For -- on what grounds? What did they 20 do?</p> <p>21 A I don't recall specifically, but I do 22 recall that we did terminate representatives over 23 time for disciplinary action.</p> <p>24 Q And that was in connection with Opana ER</p>

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<p style="text-align: center;">Page 362</p> <p>1 promotion?</p> <p>2 A I don't recall if it was in connection</p> <p>3 with Opana ER or not.</p> <p>4 Q So you just generally recall there were</p> <p>5 from time to time terminations.</p> <p>6 A Correct.</p> <p>7 Q Okay. We looked at -- I believe it's</p> <p>8 exhibit -- I apologize.</p> <p>9 (Counsel conferring.)</p> <p>10 BY MS. SCULLION:</p> <p>11 Q Okay. Look at Exhibit 9. Thank you.</p> <p>12 A Okay.</p> <p>13 Q That's why we keep them there.</p> <p>14 I -- I --</p> <p>15 A Yes. Oh, that's 7. Sorry.</p> <p>16 Q You know what, I -- I --</p> <p>17 A I've lost my --</p> <p>18 Q That's okay. Before you go further,</p> <p>19 actually what I want is Exhibit 10. That's my</p> <p>20 fault.</p> <p>21 That's the learning module.</p> <p>22 A Yes.</p> <p>23 Q That's okay. We'll -- we can -- we can</p> <p>24 just move on because I mislaid my copy of</p>	<p style="text-align: center;">Page 364</p> <p>1 there was a titration schedule to bring patients</p> <p>2 down, but I can't give you specifics on it.</p> <p>3 Q Did Endo ever conduct any specific --</p> <p>4 or, sorry, offer any specific CMEs with respect to</p> <p>5 taking patients off of opioids?</p> <p>6 A I don't recall that.</p> <p>7 Q Okay.</p> <p>8 MS. SCULLION: Now would be a good place</p> <p>9 for a good quick break so we can get some</p> <p>10 documents together.</p> <p>11 THE WITNESS: Okay.</p> <p>12 THE VIDEOGRAPHER: The time is 4:57 p.m.</p> <p>13 We're going off the record.</p> <p>14 (Recess.)</p> <p>15 THE VIDEOGRAPHER: The time is 5:09</p> <p>16 p.m., and we're back on the record.</p> <p>17 (Romaine Exhibit No. 43 was marked</p> <p>18 for identification.)</p> <p>19 BY MS. SCULLION:</p> <p>20 Q Mr. Romaine, I'm going to hand you</p> <p>21 what's been marked as Exhibit 43. I know that we</p> <p>22 have 42 coming. We're taking this a little bit</p> <p>23 out of order.</p> <p>24 A Thank you.</p>
<p style="text-align: center;">Page 363</p> <p>1 Exhibit 10 for the moment.</p> <p>2 A Do you want mine?</p> <p>3 Q No, that's okay. Thank you. That won't</p> <p>4 work.</p> <p>5 We talked about various tools that reps</p> <p>6 used in connection with the promotion of Opana ER,</p> <p>7 and those included dosing guides, correct?</p> <p>8 A Correct.</p> <p>9 Q Conversion guides to help convert from</p> <p>10 one opioid to another, correct?</p> <p>11 A Correct.</p> <p>12 Q All right. Thank you.</p> <p>13 Do they also provide educational</p> <p>14 information to doctors about titration for opioid</p> <p>15 products?</p> <p>16 A Yes.</p> <p>17 Q Okay. And "titration" means the process</p> <p>18 of initiating a patient on to opioid therapy, in</p> <p>19 this case Opana ER.</p> <p>20 A Correct.</p> <p>21 Q Okay. Did Endo ever provide any similar</p> <p>22 tools to physicians to help them take patients off</p> <p>23 of opioids?</p> <p>24 A There was a -- if -- I -- I do recall</p>	<p style="text-align: center;">Page 365</p> <p>1 Q So this is 43. There you go.</p> <p>2 And Exhibit 43 is Bates-stamped</p> <p>3 ENDO_OPIOID_MDL-817302. And as you can see, it</p> <p>4 includes an attachment that has a fairly sizable</p> <p>5 set of data that we've attached.</p> <p>6 And Exhibit 43 is dated December 5,</p> <p>7 2010. The e-mail is from Molly Fiore to Chad</p> <p>8 Simon. Subject matter, "Library Program</p> <p>9 Utilization Update."</p> <p>10 Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Do you recall that there was a library</p> <p>13 program at Endo through which physicians could be</p> <p>14 provided textbooks?</p> <p>15 A I don't remember specifically that</p> <p>16 program, but -- but it looks like we had one.</p> <p>17 Q Okay. I mean that -- that's described</p> <p>18 here by Ms. Fiore in her note to Mr. Simon,</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q His library program utilization as of</p> <p>22 December 1st, 2010.</p> <p>23 A Yes.</p> <p>24 MR. MORRIS: Objection. Form.</p>

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<p style="text-align: right;">Page 366</p> <p>1 BY MS. SCULLION:</p> <p>2 Q Okay. And then she references the 3 spreadsheets attached, which she says contain the 4 financial budget information, and a second that 5 can be forwarded to your field sales managers so 6 they can see their activity in their particular 7 area or region, correct?</p> <p>8 A Yes.</p> <p>9 Q Okay. So this is information that she 10 is sending on to be used in the ordinary course 11 of -- of Endo's business, correct?</p> <p>12 MR. MORRIS: Object -- objection to form 13 and foundation.</p> <p>14 THE WITNESS: I don't -- I don't know 15 that, but I see the document. So...</p> <p>16 BY MS. SCULLION:</p> <p>17 Q She's sending it on to be used, yes?</p> <p>18 MR. MORRIS: Objection. Form and 19 foundation.</p> <p>20 THE WITNESS: I guess if that's what 21 it's for, yes.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q She's sending it on so that --</p> <p>24 A I was just trying to read through -- I</p>	<p style="text-align: right;">Page 368</p> <p>1 you. Do you see a highlighted line, P108F1?</p> <p>2 A Yes.</p> <p>3 Q Okay. And if you follow that across to 4 the middle of the page, you see it says Oliver 5 Herndon?</p> <p>6 A Yes, I do.</p> <p>7 Q And if you look, that's the column for 8 the clinicians' first and last name. Do you see 9 that?</p> <p>10 A Yes.</p> <p>11 Q At the top of the page?</p> <p>12 A Yes.</p> <p>13 Q Okay. So this is the name of the 14 physician, Oliver Herndon.</p> <p>15 A Herndon.</p> <p>16 Q Correct?</p> <p>17 A Yes.</p> <p>18 Q All right. And so this would indicate 19 that that physician did participate in the library 20 program as of the date here on the same line as 21 July 2nd, 2010. Do you see that?</p> <p>22 A Yes.</p> <p>23 MR. MORRIS: Objection. Form, 24 foundation.</p>
<p style="text-align: right;">Page 367</p> <p>1 was trying to read through the e-mail. I'm sorry, 2 I was --</p> <p>3 Q That's okay. Bless you.</p> <p>4 Do you want to read through the e-mail?</p> <p>5 A Yeah, do you mind? I just want to take 6 a minute to do that.</p> <p>7 Q No problem.</p> <p>8 A (Peruses document.) Okay.</p> <p>9 Q Okay. And having read through the 10 e-mail, do you understand again that this is a 11 library program being referenced for physicians 12 that Endo was -- Endo sales reps were calling on?</p> <p>13 A Yes.</p> <p>14 Q Okay. If you could go -- we've tabbed 15 it for you in the spreadsheet, there's a little 16 pink tab on the --</p> <p>17 A Yes.</p> <p>18 Q -- side. Because there's no page --</p> <p>19 A Oh, on the side. Okay. Got you.</p> <p>20 Q -- there that's useful.</p> <p>21 The page is numbered by us as E1230.156 22 in the upper right hand.</p> <p>23 A Yep.</p> <p>24 Q Great. And it should be highlighted for</p>	<p style="text-align: right;">Page 369</p> <p>1 BY MS. SCULLION:</p> <p>2 Q Does Dr. Herndon's name ring a bell?</p> <p>3 A It does not.</p> <p>4 Q Let me --</p> <p>5 MS. SCULLION: Can we have Exhibit 42. 6 (Romaine Exhibit No. 42 was marked 7 for identification.)</p> <p>8 BY MS. SCULLION:</p> <p>9 Q I hand you what's been marked as 10 Exhibit 42.</p> <p>11 A Thank you.</p> <p>12 Q And this is Bates-stamped ENDO_OPIOID_ 13 MDL-02314929, and we've marked it as E1178. 14 And, Mr. Romaine, you will see this is a 15 copy of a Pittsburgh Post-Gazette article dated 16 June 18th, 2012 --</p> <p>17 A Mm-hmm.</p> <p>18 Q -- that was sent by e-mail by Greg 19 Thomas to Mr. Pyszczymuka, Ms. Logan, Ms. Vitanza, 20 Chris Clark and Glenn Astley at Endo. Do you see 21 that?</p> <p>22 A Yes.</p> <p>23 Q And then Mr. Astley forwards it on to, 24 among others, Janett Mendez-DeTore, who I think</p>

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<p>1 you mentioned earlier, correct?</p> <p>2 A Yes.</p> <p>3 Q All right. And she in turn forwards it</p> <p>4 on to you as an FYI. Do you see that?</p> <p>5 A Yes.</p> <p>6 Q Did you read the story when it was</p> <p>7 forwarded on to you by Ms. Mendez-DeTore?</p> <p>8 A I don't recall.</p> <p>9 Q Okay. Does this -- looking at</p> <p>10 Exhibit 42, does this refresh your recollection</p> <p>11 about a story -- sorry -- an article in the</p> <p>12 Pittsburgh Post-Gazette?</p> <p>13 A It does not. I don't remember it.</p> <p>14 Q Okay. Let's look at the article itself.</p> <p>15 A Okay.</p> <p>16 Q E1178.2. And if you go down about</p> <p>17 middle of that page, it starts with -- sorry --</p> <p>18 the paragraph that starts with: "It's well known</p> <p>19 that many prescription narcotic users..." Do you</p> <p>20 see that?</p> <p>21 A It's the start of a paragraph?</p> <p>22 Q Yeah. "It's well known that many</p> <p>23 prescription narcotic users..."</p> <p>24 A Okay, I see that.</p>	<p>1 understand your line of questioning. Are you</p> <p>2 asking me it was well known that --</p> <p>3 BY MS. SCULLION:</p> <p>4 Q No, I'm asking was -- yeah, was -- was</p> <p>5 that a market reality at that point?</p> <p>6 MR. MORRIS: Objection. Form.</p> <p>7 THE WITNESS: That -- I -- I don't know.</p> <p>8 I don't know -- I don't remember that being a</p> <p>9 market reality.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q Okay. And then if you go further along</p> <p>12 in the article, two paragraphs later it begins</p> <p>13 with a quote: "Here is a pill person who has now</p> <p>14 worked their way up through Percocets and Vicodin.</p> <p>15 Now they say they want something stronger, so</p> <p>16 they're moving to Opana."</p> <p>17 Were you familiar with people who had</p> <p>18 been abusing Percocets and Vicodin moving their</p> <p>19 way up to Opana? Was that a phenomenon that you</p> <p>20 knew about in June of 2012?</p> <p>21 A No, not that I know of.</p> <p>22 Q Okay. If you go to the bottom of this</p> <p>23 page, it begins "Mr. Larcinese is blamed for</p> <p>24 selling more than..."</p>
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<p>1 Q Okay. And this paragraph goes on to</p> <p>2 discuss the unveiling of a nine-count indictment</p> <p>3 of 15 people accused of bringing prescription</p> <p>4 Opana and heroin from Detroit to Pennsylvania.</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Were you aware of that indictment?</p> <p>8 A I was not -- I don't recall that</p> <p>9 indictment.</p> <p>10 Q Okay. That would be an example of</p> <p>11 diversion of Opana, correct?</p> <p>12 A Correct.</p> <p>13 Q All right. And the article goes on to</p> <p>14 indicate: "That's a disturbing change from the</p> <p>15 traditional demarcation between pill pushers and</p> <p>16 street drug dealers. Experts said it reflects</p> <p>17 market realities."</p> <p>18 Do you see -- see that?</p> <p>19 A Yes.</p> <p>20 Q By 2012, had it in fact become a market</p> <p>21 reality that Opana was being diverted and sold</p> <p>22 along with street drugs like heroin?</p> <p>23 MR. MORRIS: Objection. Form.</p> <p>24 THE WITNESS: I'm not quite sure I</p>	<p>1 Do you see that?</p> <p>2 A Yes.</p> <p>3 Q If you go a couple of sentences in, the</p> <p>4 statement that: "Mr. Hickton" -- and this is U.S.</p> <p>5 Attorney David Hickton -- "Mr. Hickton's office</p> <p>6 recently took another link from the supply chain</p> <p>7 with the conviction of Oliver W. Herndon, a doctor</p> <p>8 who pleaded guilty last month to healthcare fraud</p> <p>9 and improper distribution of oxycodone and</p> <p>10 oxymorphone. Dr. Herndon prescribed Opana and</p> <p>11 other potent narcotics based on three-minute</p> <p>12 office visits devoid of physical examinations or</p> <p>13 case histories."</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q The description there of what Mr. --</p> <p>17 sorry, what Dr. Herndon did, that's a description</p> <p>18 of a classic pill mill, correct?</p> <p>19 MR. MORRIS: Objection. Form.</p> <p>20 THE WITNESS: I'm not an expert in that,</p> <p>21 but that's what that looks like.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q Okay. Just three-minute office visits,</p> <p>24 not really doing any examinations, not taking case</p>

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<p>1 histories, those are classic indications of a pill 2 mill, right? 3 A Correct. 4 Q And this article is indicating that 5 Dr. Herndon prescribed Opana as well as other 6 potent narcotics as part of that pill mill, 7 correct? 8 A He did prescribe that, yes. 9 Q Okay. And according to the next 10 paragraph, the assistant special agent in charge 11 of the DEA office in Pittsburgh, Gary Davis, says 12 that taking Dr. Herndon off the market made a 13 major impact in Pittsburgh. 14 Do you see that? 15 A Yes. 16 Q And then going back to the first page of 17 Exhibit 42 where Ms. Mendez-DeTore has forwarded 18 this article on to you as an FYI, she notes: 19 "Dr. Herndon was the number one prescriber of OER 20 in the nation." Correct? 21 A I see that. 22 Q And OER means Opana ER, correct? 23 A I'm assuming that's what she's referring 24 to in her e-mail.</p>	<p>1 Q Now, we saw from Exhibit 43, which is 2 from December of 2010 -- 3 A Yes. 4 Q -- that Dr. Herndon had been on the call 5 list for -- for some time. He's on in 2010; he's 6 getting library books, correct? 7 A Yes. 8 Q And then if you will pull up Exhibit 17. 9 It's in your pile. 10 A Oh. 11 Q It's going to look like that 12 (indicating). 13 A Okay. 14 Q That's it. 15 A Got it. 16 Q And if you look at Exhibit 17, now this 17 is a list that Alicia Logan has as of February 18 2012 showing which Opana ER prescribers -- sorry, 19 which pharmacies are declining to fill Opana ER 20 prescriptions, and she's listing -- if you look in 21 the right-hand corner, that Dr. Oliver Herndon is 22 listed already in February 2012 as a physician 23 that Endo knows pharmacies are refusing to fill 24 prescriptions for, correct?</p>
<p style="text-align: center;">Page 375</p> <p>1 Q Okay. So she's telling you that this 2 doctor who -- yeah, who's pled guilty to improper 3 distribution of oxymorphone and had -- was 4 described as running a pill mill for Opana, was in 5 fact the number one prescriber for Opana ER in the 6 nation. That's what she's telling you, right? 7 A That's correct. 8 Q Did that stick out in your mind when you 9 got it? 10 A I don't remember this specifically. 11 Q Okay. 12 A I'm assuming this would be one where 13 they would have been removed from our -- our call 14 plan obviously immediately had we had this 15 information. So this would have gone through 16 compliance. 17 Q Okay. Do you know if it went through 18 compliance? 19 A I think at this point -- I don't know 20 specifically what happened at the back end of 21 this. But I -- but I have to believe, based on 22 the processes that were in place at Endo, that we 23 would have referred this to the departments that 24 would have taken care of it.</p>	<p style="text-align: center;">Page 377</p> <p>1 A Correct. 2 Q But he's -- he's still on the call list 3 at that point. He's just -- the pharmacies are 4 refusing to fill his prescriptions, correct? 5 MR. MORRIS: Objection. Form and 6 foundation. 7 THE WITNESS: I don't know if he is on 8 the call list. 9 BY MS. SCULLION: 10 Q Well, Ms. Logan is -- it's when she's 11 pulling data with respect to relevant physicians 12 for Endo, correct, for Opana? 13 A I don't know where she pulled the data 14 from. I don't know if they're -- they're call 15 list physicians or not based on her e-mail. 16 Q Okay. Do you recall discussing the 17 concept of an exclusion list? 18 A Yes. 19 Q Okay. 20 MS. SCULLION: Can we have Exhibit 44. 21 Thank you. 22 THE WITNESS: We're done with this -- 23 this one for temporarily right now? 24 MS. SCULLION: Actually, yes.</p>

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<p style="text-align: right;">Page 378</p> <p>1 (Romaine Exhibit No. 44 was marked 2 for identification.) 3 BY MS. SCULLION: 4 Q I'm going to hand you what's been marked 5 as Exhibit 44. And again, this is a rather large 6 set of data. The Bates stamp is ENDO_OPIOID_ 7 MDL-0924490. 8 And it doesn't have the cover e-mail, 9 but we've pulled up on the screen the metadata 10 that came with it when it was produced to us. And 11 it states: "1P15, prescriber removal list, IMS 12 update, date created November 2012." 13 A Okay. 14 Q And that should be on the screen in 15 front of you. 16 MS. SCULLION: If you could expand -- 17 THE WITNESS: Do you see that? 18 MS. SCULLION: -- expand that box a 19 little bit? The creation date. There, date last 20 modified. I apologize. 21 BY MS. SCULLION: 22 Q There it is, date created, do you see 23 November 2012? 24 A Yes.</p>	<p style="text-align: right;">Page 380</p> <p>1 MR. MORRIS: Objection. 2 BY MS. SCULLION: 3 Q Do you see that? 4 MR. MORRIS: Objection. Form and 5 foundation. 6 THE WITNESS: I see that. 7 BY MS. SCULLION: 8 Q Do you see on the same page, other -- 9 other physicians, the reason for the request for 10 removal is retired, right, or compliance? 11 MR. MORRIS: Objection. Form and 12 foundation. 13 THE WITNESS: Yes. 14 BY MS. SCULLION: 15 Q So this is not indicating he's being 16 removed for compliance; he's just being removed 17 for no access, correct? 18 MR. MORRIS: Form and foundation. 19 THE WITNESS: Again, this is not my 20 report. I -- I don't know the answer to that. It 21 could have been a typo. I don't -- I just don't 22 know. It's not my information. 23 BY MS. SCULLION: 24 Q So -- again, so we see him in 2010</p>
<p style="text-align: right;">Page 379</p> <p>1 Q I'll represent to you that having looked 2 at the removal list provided to us, November 2012 3 is the first remove -- time we see Dr. Herndon 4 actually appear on a removal from the call list. 5 A And where do you see -- I'm trying to 6 catch up. Where do you see his name? 7 Q I'm going to bring you to that. 8 A Okay. 9 Q Which is if you go to the tabbed page in 10 Exhibit 44. And just to make sure we're on the 11 same page, it's E1247.65 in the upper right-hand 12 corner. Do you see that? 13 A Oh, yes, I'm sorry. I'm following you 14 there. Okay. 15 Q And we've highlighted for you, towards 16 the bottom of the page, you see the line that says 17 "Oliver Herndon," and lists his address in 18 Pittsburgh? 19 A Yes. 20 Q And -- I apologize. Hold on one second. 21 And it lists that the reason on the far 22 right-hand column, the reason for the request 23 for -- to remove him from the list was simply no 24 access.</p>	<p style="text-align: right;">Page 381</p> <p>1 getting library books, so he's on the call list. 2 We don't see him being -- even requested to be 3 removed until November of 2012. And this is 4 someone, who based on the description in the 5 article, should have been setting off alarm 6 bells -- 7 A Mm-hmm. 8 Q -- in that district, correct? 9 MR. MORRIS: Objection. Form and 10 foundation. 11 THE WITNESS: Yes. 12 BY MS. SCULLION: 13 Q The -- the rep clearly should have known 14 this was a pill mill based on what was being 15 described, right? 16 A And -- 17 MR. MORRIS: Objection. Form, 18 foundation. 19 THE WITNESS: And just for clarity, we 20 don't know that they didn't and then didn't refer 21 it inside to compliance. 22 BY MS. SCULLION: 23 Q Well, but again we see that they've 24 been -- this Dr. Herndon has been detailed since</p>

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<p>1 at least 2010. That was in the library book, the 2 library program list.</p> <p>3 A Correct.</p> <p>4 Q And we don't see him actually being 5 requested to be removed until 2012. So that's a 6 fair amount of time to go by to have him not be 7 removed from the call list, correct?</p> <p>8 MR. MORRIS: Objection. Form and 9 foundation.</p> <p>10 THE WITNESS: And I don't know what -- I 11 don't have the information to -- to clarify that.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q And when you received this article and 14 Ms. Mendez-DeTore's e-mail telling you that 15 Dr. Herndon is not only a physician on the call 16 list in Pittsburgh, was in fact the number one 17 prescriber of Opana ER in the nation, and he's 18 busted as a pill mill, did that cause you to have 19 concerns about what is going on in terms of our 20 monitoring for pill mills?</p> <p>21 A Well, I don't recall from seven years 22 ago what had happened. But this is a classic 23 example where it would have gone to the different 24 departments to be triaged to.</p>	<p>1 we really need to take a look at Pittsburgh, 2 there's a problem here?</p> <p>3 A I -- I don't recall that.</p> <p>4 Q Do you know whether --</p> <p>5 A Not that I didn't. I just don't recall.</p> <p>6 Q Do you know whether anyone at Endo said, 7 We need to do an investigation into Pittsburgh and 8 see what's going on here, there seems to be a hot 9 bed of Opana diversion?</p> <p>10 A I know there were areas in the country 11 where they -- where they suspected that diversion 12 was taking place and investigations took place. 13 That's what I know.</p> <p>14 Q And as VP of sales, were you informed 15 when investigations were being -- were being 16 conducted with respect to specific locales?</p> <p>17 A No. That was confidential information, 18 and I would be informed after the fact.</p> <p>19 Q Wouldn't it have been important to you 20 to know that Endo was investigating diversion and 21 pill mills within an area where you're sending out 22 sales reps to sell these pills? Wouldn't you have 23 wanted to know that they might be selling to pill 24 mills that are under investigation?</p>
<p>1 Q Did it concern you that the fact that 2 the number one prescriber of Opana ER turned out 3 to be a pill mill?</p> <p>4 MR. MORRIS: Objection to form.</p> <p>5 THE WITNESS: I -- I don't recall this 6 specific situation.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q You have no recollection whatsoever of 9 that, number one prescriber gets busted as a pill 10 mill?</p> <p>11 A From seven years ago, I don't.</p> <p>12 Q And that article that Ms. Mendez-DeTore 13 reported to you not only talked about the number 14 one prescriber of Opana ER being busted as a pill 15 mill, it also discussed a number of other 16 circumstances of diversion and abuse of Opana in 17 Pittsburgh and in Pennsylvania, correct?</p> <p>18 A I haven't read the article.</p> <p>19 Q -- haven't -- we read through those. It 20 talks about the indictment of 15 people accused of 21 bringing prescription Opana from Detroit to 22 Pennsylvania, correct?</p> <p>23 A I see that.</p> <p>24 Q Did any of this cause you to say, Wow,</p>	<p>1 A Not until the --</p> <p>2 MR. MORRIS: Objection to form.</p> <p>3 THE WITNESS: Not until the 4 investigation was completed.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q Do you know how long the investigation 7 would take?</p> <p>8 A I do not know that.</p> <p>9 Q So it could take --</p> <p>10 A I'm assuming it could be varying. Right.</p> <p>11 Q Right, so it could take months.</p> <p>12 MR. MORRIS: Objection. Form.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q It could take years.</p> <p>15 A I don't -- I don't know that.</p> <p>16 Q You didn't know -- you didn't know how 17 long pill mills could be under investigation, and 18 your sales reps are out there selling pills to 19 them before compliance would complete its 20 investigation, you just didn't know that?</p> <p>21 A I didn't know the length that it would 22 take for due process.</p> <p>23 (Romaine Exhibit No. 45 was marked</p>
	97 (Pages 382 to 385)

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<p>1 for identification.)</p> <p>2 BY MS. SCULLION:</p> <p>3 Q We have -- I'm sorry. I'm handing you</p> <p>4 what's been marked as Exhibit 45, and Exhibit 45</p> <p>5 is Bates-stamped END00562948. And we've stamped</p> <p>6 it E1212.</p> <p>7 And this is an e-mail from Jodi Block to</p> <p>8 Kenneth Price dated June 15th, 2012, and it states</p> <p>9 that there's an attachment of the -- a copy of the</p> <p>10 Nation Weekly Prescriber Sales.</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q So this is June 2012. If you will turn</p> <p>14 to the attachment to the e-mail, and go to page</p> <p>15 E1212.9 in the top right corner.</p> <p>16 A Yes.</p> <p>17 Q And towards the bottom of the page --</p> <p>18 one, two, three, four -- six lines from the</p> <p>19 bottom, do you see here Oliver Herndon listed and</p> <p>20 his sales indicated in 2012, correct?</p> <p>21 MR. MORRIS: Objection to form and</p> <p>22 foundation.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Do you see the line with Oliver Herndon</p>	<p>1 says.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q That's what the report says.</p> <p>4 A However, in the report also, it's -- I'm</p> <p>5 trying to patch this together.</p> <p>6 Q Yep.</p> <p>7 A It looks like he's not prescribing in</p> <p>8 May. Is it -- he really hasn't prescribed since</p> <p>9 March.</p> <p>10 Q So --</p> <p>11 A Or maybe February.</p> <p>12 Q -- do you remember that in Exhibit 42,</p> <p>13 and we can look at it, the article states that he</p> <p>14 was -- pled guilty?</p> <p>15 A Okay.</p> <p>16 Q Let's go to the bottom of -- in</p> <p>17 Exhibit 42, the bottom of page E1178.2.</p> <p>18 A Okay.</p> <p>19 Q This article is dated June 18, 2012, and</p> <p>20 says, "Dr. Herndon pled guilty last month."</p> <p>21 Do you think that the sales dropped off</p> <p>22 because he -- he pled guilty?</p> <p>23 A I don't know. I don't know how -- I</p> <p>24 don't remember this physician.</p>
<p>1 listed there?</p> <p>2 A I do see that.</p> <p>3 Q So this is indicating -- if you go to</p> <p>4 the first page, you can see that there's a header</p> <p>5 that tells you that the columns are showing weekly</p> <p>6 sales, the current 15-week volume descending. Do</p> <p>7 you see that?</p> <p>8 A Yes.</p> <p>9 Q All right. So -- I mean, this is</p> <p>10 telling us that Dr. Herndon was clearly still on</p> <p>11 the -- sorry -- that Dr. Herndon was still</p> <p>12 prescribing Opana ER, and recorded in Endo's</p> <p>13 records as of June 2012, correct?</p> <p>14 A At what month -- say that again, please.</p> <p>15 Q As of June 2012, the date of the e-mail.</p> <p>16 You know, I apologize, the e-mail says</p> <p>17 that -- it refers to a May 2012 --</p> <p>18 A Yeah.</p> <p>19 Q -- report. So the report is as of May</p> <p>20 2012, Dr. Herndon is still a customer of Endo with</p> <p>21 respect to Opana ER, correct?</p> <p>22 MR. MORRIS: Objection. Form.</p> <p>23 Foundation.</p> <p>24 THE WITNESS: That's what the report</p>	<p>1 Q But clearly he was -- you know, he was</p> <p>2 still being -- he was still a customer of Endo in</p> <p>3 the -- as of March 2012, as you said, right?</p> <p>4 MR. MORRIS: Objection. Form and</p> <p>5 foundation.</p> <p>6 THE WITNESS: I don't know. I don't</p> <p>7 know.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q But you're seeing Opana sales listed for</p> <p>10 him, correct?</p> <p>11 A Correct. It doesn't mean he was called</p> <p>12 on, but he might have still been prescribing.</p> <p>13 Q And Endo was still receiving money for</p> <p>14 those sales of Opana ER from his prescriptions,</p> <p>15 correct?</p> <p>16 MR. MORRIS: Objection. Foundation.</p> <p>17 THE WITNESS: I -- I don't know how that</p> <p>18 transpired, but --</p> <p>19 BY MS. SCULLION:</p> <p>20 Q And if -- it's paid for the</p> <p>21 prescriptions of its products eventually, correct?</p> <p>22 A Correct.</p> <p>23 Q When you were VP of sales for Endo, was</p> <p>24 your office in Chadds Ford, PA?</p>

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<p>1 A Yeah, Chadds Ford and Malvern. 2 Q And then Malvern? 3 A Yes. 4 Q Okay. And that's right near Philly -- 5 A Yeah. 6 Q -- Philadelphia, correct? 7 A Yes. 8 Q Okay. 9 MS. SCULLION: Can I have E563? 10 (Romaine Exhibit No. 46 was marked 11 for identification.) 12 BY MS. SCULLION: 13 Q Let me hand you what's been marked as 14 Exhibit 46. And this is Bates-stamped 15 ENDO-OR-CID-000694084, and we've stamped it E563 16 at the top. 17 And you're welcome to read the document. 18 A Okay. 19 Q It is a May 2011 DEA brief coming out of 20 the Philadelphia Division of the DEA. 21 A (Peruses document.) 22 Q Have you read through it? 23 A Yes. 24 Q So, again, this is a DEA brief from the</p>	<p>1 A I'm not, until we had a discussion 2 yesterday about Stop Signs, the first time I've 3 heard it. 4 Q Okay. Never came to your attention when 5 you were vice president of sales? 6 A No. 7 Q Okay. And this is though -- even though 8 sales reps are supposed to be out there looking 9 for pill mills, looking for diversion, you never 10 heard about this? 11 A I never heard about the slang names. 12 Q Okay. Were you aware of the Philly 13 DEA's report? 14 A I don't recall it. 15 Q Now, in fact, Endo knew that Opana ER 16 original formulation had been so widely abused 17 that it was determined to be not safe, correct? 18 MR. MORRIS: Objection. Form and 19 foundation. 20 THE WITNESS: I -- I don't recall that. 21 MS. SCULLION: Do you have 419? 22 (Romaine Exhibit No. 47 was marked 23 for identification.) 24 BY MS. SCULLION:</p>
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<p>1 Philadelphia Division alerting to Opana 2 oxymorphone abuse, correct? 3 A Yes. 4 Q And it indicates that: "The oxymorphone 5 brand name Opana has been reported by several 6 sources of information as," quote, "the big thing 7 right now in pharmaceutical drug abuse in the 8 region." 9 Correct? 10 A I see that. 11 Q And it goes on to note that: "In fact, 12 oxymorphone had been abused back in the early 13 1970s and was one of the most sought after and 14 well regarded opioids at that time." Do you see 15 that? 16 A Yes. 17 Q And in fact, it had a street name, and 18 the street names were Blues, correct? 19 A That's what I see on the document. 20 Q It goes on to indicate there is in fact 21 a lot of slang terms for oxymorphone: Blues, 22 Biscuits, Blue Heaven, New Blues, Octagons, 23 Octagon Stop Signs, Pink, Pink Heaven. Are you 24 familiar with those street names for Opana?</p>	<p>1 Q Okay. I'm handing you what's been 2 marked as Exhibit 47. And it's Bates-stamped 3 ENDO_CHI_LIT-0008100. And this is a May 31st, 4 2012 e-mail from Tara Chapman to Maryann Holovac 5 at the FDA. Subject: "Request to move Opana ER, 6 NDA 21-610, to the Orange Book discontinued list." 7 Do you see that? 8 A Yes. 9 Q And Ms. Chapman at the time, as it says 10 in her signature block, was a director of 11 Regulatory Affairs liaison for Endo, correct? 12 A Correct. 13 Q And what Ms. Chapman says to the FDA -- 14 And the FDA was the principal regulator 15 for Endo's pharmaceuticals, correct? 16 A Correct. 17 Q And what she says to the FDA in the 18 second paragraph was: "While the original 19 formulation of Opana ER was deemed by FDA to be 20 safe and effective when taken according to the 21 prescribing information, the original formulation 22 was subject to both intentional and inadvertent 23 abuse and misuse." Correct? 24 A I see that.</p>

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<p>1 Q And so Endo was aware of abuse and 2 misuse of the original formulation of Opana ER, 3 correct?</p> <p>4 MR. MORRIS: Objection. Form and 5 foundation.</p> <p>6 THE WITNESS: The product had a black 7 box warning.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q Ms. Chapman doesn't say the product had 10 a black box warning. She says: "The original 11 formulation was subject to both intentional and 12 inadvertent abuse and misuse," correct?</p> <p>13 A I --</p> <p>14 MR. MORRIS: Objection to form.</p> <p>15 THE WITNESS: This is -- that's her -- 16 that's what she says in her memo.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q And that's what she says to the FDA, 19 right?</p> <p>20 A Right.</p> <p>21 Q And you expected that to be accurate 22 when she said it, correct?</p> <p>23 A I've not dealt with the FDA directly, so 24 I --</p>	<p>1 BY MS. SCULLION: 2 Q But that's not what Endo -- Endo told 3 the FDA that because of intentional and 4 inadvertent abuse and misuse, the product was not 5 safe. 6 A But this is out of my wheelhouse. You 7 know, this is not an area that I -- I have 8 expertise in.</p> <p>9 BY MS. SCULLION: 10 Q Okay. And we saw the DEA's report on 11 Opana abuse, correct, in 2011? We saw that. 12 A Correct. 13 Q But Endo was still aggressively selling 14 Opana ER throughout 2011, correct? 15 MR. MORRIS: Objection. Form. 16 THE WITNESS: We were -- we were 17 promoting it based on the package insert with full 18 describing -- prescribing information. 19 BY MS. SCULLION: 20 Q Do you recall that we looked earlier -- 21 MS. SCULLION: Do we have that -- the 22 exhibit. 23 BY MS. SCULLION: 24 Q If we look at Exhibit 31, we saw that by</p>
<p>Page 395</p> <p>1 Q Would you expect that -- Endo's director 2 of Regulatory Affairs to be making accurate 3 statements to the regulatory agency for the 4 products?</p> <p>5 A I don't know --</p> <p>6 MR. MORRIS: Objection to form.</p> <p>7 THE WITNESS: I don't know why she would 8 not, so... 9 BY MS. SCULLION:</p> <p>10 Q Correct. 11 And then she goes on to say: "Endo 12 believes the new formulation of Opana ER, which is 13 designed to be crush-resistant, offers safety 14 advantages over the original formulation, and the 15 original formulation should be discontinued for 16 safety reasons." Correct?</p> <p>17 A I see that.</p> <p>18 Q And so it was Endo's position that the 19 original formulation of Opana ER was not safe as 20 of this point, correct?</p> <p>21 MR. MORRIS: Objection. Form, 22 foundation.</p> <p>23 THE WITNESS: If prescribed 24 appropriately, it was effective.</p>	<p>Page 397</p> <p>1 the end of 2011, sales of Opana were at an 2 all-time high. 3 A This (indicating), right? 4 Q No, Exhibit 31. 5 A Oh. 6 Q Which describes -- it's Ms. Vitanza's 7 e-mail -- 8 A Oh. 9 Q -- forwarding on Mr. Pyszczymuka's Opana 10 weekly -- Opana ER Weekly. Exhibit 31. 11 A Got it. Sorry. 12 Q Great. 13 And if you look at the bottom of the 14 first page of Exhibit 31, again, the report is 15 that the weekly sales in September -- end of 16 September, beginning of October for Opana ER were 17 at an all-time high, correct? 18 A Correct. 19 Q And this is a time when DEA in 20 Philadelphia, Endo's own backyard, is saying that 21 Opana is becoming the new OxyContin, correct? 22 A I think you have to keep in mind, just 23 full context, the market share was six, six and a 24 half percent. So in the marketplace, it was very</p>

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<p>1 small.</p> <p>2 Q You think it was very small to --</p> <p>3 A Six percent compared to --</p> <p>4 Q -- to folks who would overdose on it</p> <p>5 if --</p> <p>6 A Well, taken inappropriately --</p> <p>7 MR. MORRIS: Object -- objection. Form</p> <p>8 and foundation.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q But the DEA is not talking about taking</p> <p>11 it appropriately. The DEA is talking about a</p> <p>12 known phenomenon of abuse and diversion of Opana</p> <p>13 that's occurring, and it's occurring right in</p> <p>14 Endo's own backyard in Philadelphia. Right?</p> <p>15 MR. MORRIS: Objection to form.</p> <p>16 Argumentative.</p> <p>17 THE WITNESS: I -- I don't remember that</p> <p>18 report until you showed it to me. But I've seen</p> <p>19 it today.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Do you -- having seen it, do you</p> <p>22 remember it?</p> <p>23 A Yes.</p> <p>24 Q You do remember seeing that?</p>	<p>1 Q What is CSO Pain Sales All?</p> <p>2 A That was a contract, in Ventiv sales</p> <p>3 force.</p> <p>4 Q Okay. So this is going out to both the</p> <p>5 contracted and in-house sales force, right?</p> <p>6 A Yes.</p> <p>7 Q And I apologize, we should have started</p> <p>8 with the very bottom e-mail, which is sent by Jane</p> <p>9 Clifford on your behalf.</p> <p>10 A Yes.</p> <p>11 Q Is that right?</p> <p>12 A Yes.</p> <p>13 Q Okay. And the body of that e-mail</p> <p>14 appears on page E1179.2.</p> <p>15 A Okay.</p> <p>16 Q And you are sending this out to convey</p> <p>17 that: "The FDA issued a statement on their</p> <p>18 website in the drug alerts and statement section</p> <p>19 to alert that Opana ER with INTAC technology may</p> <p>20 cause a serious blood disorder if abused via</p> <p>21 intravenous injection."</p> <p>22 Do you see that?</p> <p>23 A Yes.</p> <p>24 Q Do you remember that alert -- that</p>
<p style="text-align: center;">Page 399</p> <p>1 A Today.</p> <p>2 Q Do you remember seeing it at the time?</p> <p>3 A No, I do not remember.</p> <p>4 Q Okay. In fact, I want to start with</p> <p>5 that.</p> <p>6 MS. SCULLION: Do you have that? Oh,</p> <p>7 these are all the copies. Don't give me all the</p> <p>8 copies.</p> <p>9 (Romaine Exhibit No. 48 was marked</p> <p>10 for identification.)</p> <p>11 BY MS. SCULLION:</p> <p>12 Q I will hand you what's been marked as</p> <p>13 Exhibit 48. Exhibit 48 is Bates-stamped</p> <p>14 ENDO_OPIOID_MDL-01968698, and we've stamped it</p> <p>15 E1179.</p> <p>16 And this is a series of two e-mails. So</p> <p>17 the first is an e-mail from you to Endo Pain Sales</p> <p>18 All, CSO Pain Sales All, dated October 30th, 2012.</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q And Endo Pain Sales All, would that have</p> <p>22 been the entirety of the pain sales representative</p> <p>23 sales force?</p> <p>24 A Yes.</p>	<p style="text-align: center;">Page 401</p> <p>1 statement, rather?</p> <p>2 A I don't particularly remember this</p> <p>3 e-mail, but I -- I do remember that period of</p> <p>4 time.</p> <p>5 Q That period of time --</p> <p>6 A When -- when this occurred.</p> <p>7 Q -- being fall of 2012?</p> <p>8 A Yes.</p> <p>9 Q And do you remember that by that time,</p> <p>10 Endo was aware that Opana ER with INTAC technology</p> <p>11 may cause a serious blood disorder if abused via</p> <p>12 intravenous injection?</p> <p>13 MR. MORRIS: Objection to form.</p> <p>14 THE WITNESS: I -- I don't specifically</p> <p>15 remember that occurring, that specific issue, but</p> <p>16 I do remember drafting this -- this e-mail was</p> <p>17 drafted for me so I could forward it to the sales</p> <p>18 force.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q When you say you don't remember that</p> <p>21 specific issue, you don't remember that it may</p> <p>22 cause a serious blood disorder; is that what you</p> <p>23 mean?</p> <p>24 A Yes.</p>

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<p style="text-align: center;">Page 402</p> <p>1 Q Were you aware that there was a concern 2 about a blood disorder being caused by intravenous 3 abuse of Opana ER?</p> <p>4 A I do recall a period of time when 5 that -- that did occur, when we heard about this.</p> <p>6 Q Okay. And this -- the e-mail sent out 7 on your behalf goes on in the next paragraph to 8 advise: "Please review the following FAQs, which 9 are for internal use only and not to be discussed 10 or distributed to customers."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q And the paragraph goes on that: "Please 14 direct any questions your customers may have about 15 TTP to medical information. While this 16 information is not to be used in discussions with 17 healthcare professionals, we wanted to provide you 18 an update on the FDA's statement and background 19 information."</p> <p>20 Do you see that?</p> <p>21 A Yes.</p> <p>22 Q So the instructions to the district 23 managers was not to go out and affirmatively 24 advise customers about the FDA's statement and</p>	<p style="text-align: center;">Page 404</p> <p>1 THE WITNESS: Again, that's not in my 2 department --</p> <p>3 MR. MORRIS: Objection. Form, 4 foundation, and legal conclusion.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q That would have been an option Endo --</p> <p>7 THE REPORTER: What was your answer?</p> <p>8 I'm sorry.</p> <p>9 MS. SCULLION: Thank you.</p> <p>10 THE WITNESS: That was not within my 11 department.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Okay. But Endo could have undertaken to 14 affirmatively advise its customers about this 15 serious blood disorder that the FDA was raising an 16 alert about, correct?</p> <p>17 MR. MORRIS: Objection. Form and 18 foundation.</p> <p>19 THE WITNESS: Well, if you read this, if 20 questions came up from physicians, then there -- 21 we instructed the representatives to make sure 22 they call so they could get answers.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q Right, that's if -- if the physicians</p>
<p style="text-align: center;">Page 403</p> <p>1 concern about Opana ER causing a serious blood 2 disorder if used by IV injection, and not to use 3 this information in discussions with healthcare 4 providers, correct?</p> <p>5 A Correct.</p> <p>6 Q The only thing that was to be done was 7 that if a customer raised a question themselves, 8 the question was to be referred up to medical 9 information, correct?</p> <p>10 A Correct.</p> <p>11 Q And again, as we discussed earlier, Endo 12 could have sent out a Dear Doctor letter to all 13 its customers to affirmatively alert them to the 14 FDA's statement, correct?</p> <p>15 MR. MORRIS: Object -- objection. Form, 16 foundation, legal conclusion.</p> <p>17 THE WITNESS: Again, that -- that wasn't 18 in my department, so I don't recall whether that 19 happened or not.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q That would have been an option that 22 the -- that Endo would have had, though.</p> <p>23 MR. MORRIS: Objection. Form and 24 foundation --</p>	<p style="text-align: center;">Page 405</p> <p>1 themselves asked.</p> <p>2 A Right.</p> <p>3 Q But if they didn't know about this risk 4 from -- a serious blood disorder from intravenous 5 abuse of Opana ER, they wouldn't know to ask that 6 question, right?</p> <p>7 MR. MORRIS: Objection. Form and 8 foundation.</p> <p>9 THE WITNESS: I -- I can't answer that 10 question. I don't under- -- that's not my -- my 11 area of expertise, so that would go to our medical 12 department.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q But -- but the customers wouldn't 15 necessarily know that there was that risk to even 16 ask the question, would they?</p> <p>17 MR. MORRIS: Objection. Form.</p> <p>18 THE WITNESS: I -- I don't know. I 19 don't know the answer to that.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Well, and your e-mails were not telling 22 anyone in sales, though, to make sure that the 23 customers knew that information.</p> <p>24 A We were instructed, as you can see</p>

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<p>1 through this e-mail, that if questions came up, 2 don't answer them; have them call this number to 3 get that specific information. Because they're 4 not the expert in that.</p> <p>5 And just to provide clarity, as you look 6 at this e-mail, I mean the focus here was to make 7 sure the representatives stayed focused on the 8 training and what they could present and what -- 9 and stay within a fair balance of the product.</p> <p>10 Q So, Mr. Romaine, again, we saw the DEA 11 alert from 2011 that included information about 12 how oxymorphone had been abused back in the 1970s, 13 right?</p> <p>14 A You showed us that.</p> <p>15 Q Right. And then -- the DEA was raising 16 concerns about abuse of Opana ER in the 17 Philadelphia area and other areas in 2011 itself. 18 Right?</p> <p>19 A Right.</p> <p>20 Q Okay. And then here in October of 2012, 21 the FDA is saying reformulated Opana ER with INTAC 22 also has a serious blood disorder associated 23 with -- with it when it's abused by IV injection, 24 right?</p>	<p>1 the use of Opana ER. 2 BY MS. SCULLION: 3 Q Right. So October 2012, the FDA thinks 4 this is important enough to actually issue a 5 statement, despite the black box. The FDA issues 6 a statement saying that Opana ER with INTAC may 7 cause a serious blood disorder if abused 8 intravenously. And Endo doesn't affirmatively go 9 out and tell physicians. And your instruction to 10 the sales force, as you've been describing, is 11 business as normal. 12 MR. MORRIS: Objection. Foundation, 13 form. 14 THE WITNESS: And business as normal is 15 to go to your offices and provide full, fair 16 balanced prescribing information, including the 17 black box warning. That's business as normal. 18 And it goes on to state that -- to ensure that the 19 offices use our meds appropriately. 20 BY MS. SCULLION: 21 Q Your response to the FDA issuing this 22 statement, if you look at the top of page E1179, 23 in your communication to the regional directors -- 24 correct?</p>
<p style="text-align: center;">Page 407</p> <p>1 A Right. 2 Q So the reformulated version of Opana ER 3 also was being abused just like the original 4 Opana ER was being abused, correct? 5 A I -- I don't -- 6 MR. MORRIS: Objection. Form and 7 foundation. 8 THE WITNESS: I can't answer that 9 question. I'm not the expert in that field. 10 However, it did have a black box 11 warning. So in the full context of this, if 12 taken -- if prescribed appropriately to the right 13 patient, that -- that wouldn't have been an issue. 14 BY MS. SCULLION: 15 Q But the concern here is not prescribed 16 appropriately to the right patient. The concern 17 is someone intentionally or inadvertently abusing 18 the product, correct? 19 MR. MORRIS: Objection. Form and 20 foundation. 21 THE WITNESS: I -- I can't answer. 22 Again, my -- my area of expertise was to make sure 23 my sales force stayed focused on providing 24 resource and education to the offices regarding</p>	<p style="text-align: center;">Page 409</p> <p>1 A Correct. 2 Q -- was "Our promotion of Opana ER is 3 business as normal." That's what you said. 4 A "Keep your teams focused on their 5 responsibility to the offices who use the meds 6 appropriately." 7 Q Right. 8 A Business as normal, just to bring 9 clarity to it, is to go out and promote our 10 products with full fair balance so physicians 11 understand the side effects, the adverse events, 12 and so forth with the product. 13 Q And that was despite the clear notice 14 that Opana ER with INTAC technology was being 15 abused intravenously, and in some cases that abuse 16 was causing a serious blood disorder. 17 MR. MORRIS: Objection. Form. 18 THE WITNESS: I -- I -- I can't answer 19 it any other way than I already have. We had 20 clear responsibilities to our offices. 21 BY MS. SCULLION: 22 Q And those responsibilities, though, did 23 not include affirmatively going out and informing 24 them of this risk of a serious blood disorder,</p>

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<p>1 correct?</p> <p>2 A That would have been outside of my realm</p> <p>3 of responsibility in the organization.</p> <p>4 Q Do you know if it ever happened?</p> <p>5 A I don't know that.</p> <p>6 Q Did you ever ask anyone if it ever</p> <p>7 happened?</p> <p>8 A I did not ask. I don't remember asking,</p> <p>9 let me put it that way.</p> <p>10 Q Did you ever ask anyone, Are we going to</p> <p>11 send a Dear Doctor letter out?</p> <p>12 A I don't recall that.</p> <p>13 Q Did you ever ask anyone, This is</p> <p>14 problematic, the original Opana ER was subject to</p> <p>15 abuse, we know it was abused, and now we're seeing</p> <p>16 our new product is also abused?</p> <p>17 A I don't --</p> <p>18 MR. MORRIS: Objection to form.</p> <p>19 THE WITNESS: -- recall that.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Was that a concern for you that the new</p> <p>22 formulation of Opana ER was also being abused?</p> <p>23 MR. MORRIS: Objection. Form.</p> <p>24 THE WITNESS: I -- I think we all take</p>	<p>1 Q That's what the DEA notice said, right?</p> <p>2 A That's what the -- the data that you</p> <p>3 provided me said, yes.</p> <p>4 Q Right. And -- and you're saying in your</p> <p>5 entire tenure as VP of sales at Endo, you had no</p> <p>6 knowledge of the history of abuse of oxymorphone</p> <p>7 as a street drug.</p> <p>8 MR. MORRIS: Objection to form.</p> <p>9 THE WITNESS: I -- I did not say that.</p> <p>10 The product was used -- if used appropriately, was</p> <p>11 effective. There were -- we're not saying it</p> <p>12 wasn't abused because it did have a black box</p> <p>13 warning.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q I'm saying, you saying that you didn't</p> <p>16 have knowledge of the abuse of oxymorphone as a</p> <p>17 street-bought drug before the launch of</p> <p>18 Opana ER --</p> <p>19 A I did not.</p> <p>20 Q -- that it had a history?</p> <p>21 A I did not.</p> <p>22 Q You never had knowledge of that?</p> <p>23 A I don't recall that.</p> <p>24 Q Okay. Ever see the movie "Drugstore</p>
<p style="text-align: center;">Page 411</p> <p>1 responsibility for ensuring that the product is</p> <p>2 used appropriately, and that was my focus.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q But the concern was that there was</p> <p>5 knowledge that the product was not being used</p> <p>6 appropriately out there, even after reformulation,</p> <p>7 correct?</p> <p>8 MR. MORRIS: Objection. Form.</p> <p>9 THE WITNESS: I -- I -- there were --</p> <p>10 just like with any other opioid, there were</p> <p>11 abusers who didn't take the product or -- or</p> <p>12 diverted the product.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q But this wasn't like any other opioid,</p> <p>15 right? I mean, again, the DEA notice confirms</p> <p>16 there was a history going back to the '70s of</p> <p>17 oxymorphone being attractive for street abuse,</p> <p>18 right?</p> <p>19 A I can't speak to --</p> <p>20 MR. MORRIS: Objection. Form,</p> <p>21 argumentative.</p> <p>22 THE WITNESS: I can't speak to the '70s.</p> <p>23 I'm sorry.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: center;">Page 413</p> <p>1 Cowboy"?</p> <p>2 A No.</p> <p>3 Q Okay. Would it surprise you to learn</p> <p>4 "Drugstore Cowboy," the movie, mid-'80s, Gus Van</p> <p>5 Sant, in the opening dialogue in that movie talks</p> <p>6 about abuse of Blues, of oxymorphone pills?</p> <p>7 MR. MORRIS: Objection.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q Would it surprise you to know that?</p> <p>10 MR. MORRIS: Objection. Form.</p> <p>11 THE WITNESS: You're surprised I didn't</p> <p>12 know that?</p> <p>13 BY MS. SCULLION:</p> <p>14 Q Are you surprised to know that?</p> <p>15 A No, I don't know anything about the</p> <p>16 movie.</p> <p>17 MR. MORRIS: What's the time, please?</p> <p>18 THE VIDEOGRAPHER: 6 hours, 45.</p> <p>19 MS. SCULLION: We can take a break.</p> <p>20 THE VIDEOGRAPHER: The time is 6:06 p.m.</p> <p>21 We're going off the record.</p> <p>22 (Recess.)</p> <p>23 THE VIDEOGRAPHER: The time is 6:21</p> <p>24 p.m., and we're back on the record.</p>

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<p style="text-align: center;">Page 414</p> <p>1 MS. SCULLION: Mr. Romaine, welcome 2 back.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 MS. SCULLION: We have no further 5 questions for you today. Thank you for your time. 6 I believe my colleague will be questioning you 7 now.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 THE VIDEOGRAPHER: Do you want to go off 10 the record?</p> <p>11 MR. MORRIS: I guess so.</p> <p>12 THE VIDEOGRAPHER: The time is 6:21 p.m. 13 We're going off the record.</p> <p>14 (Pause.)</p> <p>15 THE VIDEOGRAPHER: The time is 6:23 p.m. 16 We're back on the record.</p> <p>17 DIRECT EXAMINATION</p> <p>18 BY MR. LENISKI:</p> <p>19 Q Good afternoon, Mr. Romaine. My name is 20 Joe Leniski. We were introduced earlier. I 21 represent district attorneys and babies born with 22 prenatal neo-abstinence syndrome in Tennessee, and 23 I'm going to ask you some questions specifically 24 about some areas about my case.</p>	<p style="text-align: center;">Page 416</p> <p>1 Q Okay. So you had no understanding 2 whether the use of opioids in Tennessee was 3 relatively high when compared to other states 4 while you were employed at Endo?</p> <p>5 A I did know that there was an area called 6 Appalachia, which I guess Tennessee maybe would 7 fall within that, but Kentucky, West Virginia, 8 that there was a high use of opioids in that area.</p> <p>9 Q Okay. And --</p> <p>10 A Both through the news and through the 11 company.</p> <p>12 Q Yeah, I was going to ask: What's your 13 understanding about opioid use in Appalachia being 14 high?</p> <p>15 A Just that there was some -- there was 16 some potential for abuse there.</p> <p>17 Q And when did you first learn that 18 information?</p> <p>19 A I can't say if -- I can't remember a 20 specific date or time period.</p> <p>21 Q Was it in connection with your job 22 responsibilities as it pertained to Opana that you 23 learned that information?</p> <p>24 A I would say yes, but also I've heard</p>
<p style="text-align: center;">Page 415</p> <p>1 A Okay.</p> <p>2 MR. LENISKI: Before we go on the 3 record, I just want to state that our clients have 4 an objection -- we're taking these depositions 5 while reserving all rights due to our standing 6 objection to cross-notices in the MDL as a result 7 of production failures under the standing NDA 8 order and lack of sufficient notice, and on the 9 basis there is no time limits in Tennessee when it 10 comes to depositions.</p> <p>11 But, nonetheless, we're cooperating and 12 here to take the deposition today.</p> <p>13 MR. MORRIS: Okay. And I'll just simply 14 note that we disagree with that position, but 15 nothing more needs to be said on the record about 16 it today.</p> <p>17 MR. LENISKI: Okay. Thank you.</p> <p>18 BY MR. LENISKI:</p> <p>19 Q During your employment at Endo, did you 20 have any understanding as to the level of opioid 21 use in Tennessee relative to other states?</p> <p>22 A I can't say specifically that I recall 23 anything different regarding the use of -- of 24 opioids in that area.</p>	<p style="text-align: center;">Page 417</p> <p>1 that since I left the company as well.</p> <p>2 Q Do you know what, if anything, about 3 that information in any way influenced your 4 performance of your job at Endo?</p> <p>5 A No.</p> <p>6 MR. MORRIS: Objection. Form.</p> <p>7 BY MR. LENISKI:</p> <p>8 Q In other words, the fact about 9 Appalachia having relative high opioid use, to 10 your knowledge, that didn't influence the manner 11 in which you gave instructions to sales reps in 12 Tennessee or parts of Appalachia?</p> <p>13 A No. Same instructions: Make sure 14 you're well educated and a resource for the 15 offices, and give full prescribing information, 16 cover the black box warning.</p> <p>17 Q Okay. Did you ever gain any 18 understanding about the level of opioid abuse in 19 Tennessee relative to other states?</p> <p>20 A The amount are you asking?</p> <p>21 Q (Counsel nods.)</p> <p>22 A I can't recall that.</p> <p>23 Q Well, and more generally, did you ever 24 get any understanding about the relative level of</p>

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<p>1 abuse of opioids in the state of Tennessee 2 relative to other states? 3 A I can't -- 4 MR. MORRIS: Objection to form. 5 THE WITNESS: I can't say specifically 6 to the state of Tennessee. 7 BY MR. LENISKI: 8 Q Okay. How about -- well, strike that. 9 With respect to Appalachia, did you gain 10 any -- any understanding about the relative level 11 of opioid abuse occurring in Appalachia compared 12 to other areas in the United States? 13 A I know that there was -- we had 14 discussions around the abuse in the Appalachian 15 state. I don't remember in context compared to 16 other states. 17 Q So you had no understanding during your 18 employment at Endo whether there was relatively 19 higher levels of abuse occurring in Appalachia 20 versus other areas of the United States? 21 A I -- I -- 22 MR. MORRIS: Objection to form. 23 THE WITNESS: I don't recall that. 24 BY MR. LENISKI:</p>	<p>1 for companywide? 2 A I -- I -- at the sales rep level, I 3 can't recall that it was specifically different. 4 I know in the company we probably did different 5 things there that I -- you know, outside of my 6 realm of responsibility, but at the rep level, I 7 know we trained very specifically on -- 8 Q Can you think of any aspect of the 9 manner in which sales reps were trained or 10 instructed for messaging in Tennessee or 11 Appalachia that differed from other areas in the 12 country? 13 A I can't recall that. No. 14 Q While employed in sales at Endo, did you 15 have any understanding about the relative 16 importance of Tennessee to Endo's Opana ER sales? 17 MR. MORRIS: Objection. Form. 18 THE WITNESS: I can't recall that at 19 this point, no. 20 BY MR. LENISKI: 21 Q Do you -- 22 A Not Tennessee specifically. 23 Q Okay. Do you recall having any 24 recollection as to whether or not Endo's Opana ER</p>
<p style="text-align: center;">Page 419</p> <p>1 Q Is that information that you believe was 2 relevant to the performance of your job duties at 3 Endo? 4 A Well, my -- my responsibilities was to 5 ensure that the sales force was well educated, a 6 resource for offices, professional, and provide a 7 full, fair balance when they're calling on 8 physicians. So to that answer, no. 9 Q Were the reps that you oversaw in -- 10 working in Tennessee or in Appalachia, were any of 11 the messages or training they received different 12 and apart from other training that was occurring 13 elsewhere in the United States? 14 A Well, they also -- I mean they received 15 training on, you know, how to look for diversion, 16 how to report diversion, numbers to call, that 17 sort of thing. 18 Q And my question, though, was a bit more 19 specific to Tennessee and Appalachia. 20 Is it your testimony that any of the 21 training or messaging that those reps were 22 performing in Tennessee or Appalachia, that that 23 was any different from other training and 24 messaging that other reps at Endo were responsible</p>	<p style="text-align: center;">Page 421</p> <p>1 sales were relatively higher in Tennessee when 2 compared to other states? 3 A Again, I can't recall that. I'm sure 4 there were reports I could have looked at at the 5 time, but I can't recall that now. 6 Q Is that something that in your job 7 responsibilities you would have been aware of or 8 you think you would have been aware of is where a 9 particular state ranks in terms of having 10 relatively high levels of Opana ER sales for Endo? 11 A Not necessarily by state, but by the 12 region I would, and if -- I would look at that 13 region. And there would be many states in that 14 region obviously. 15 Q Do you recall what region Tennessee was 16 in while you were employed at Endo? 17 A I think it was in Mid-Atlantic, but I -- 18 I don't know that for sure. I believe it was. 19 (Romaine Exhibit No. 49 was marked 20 for identification.) 21 BY MR. LENISKI: 22 Q Mr. Romaine, I've handed you a document 23 identified as Exhibit 49 to your deposition. 24 A Okay.</p>

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<p style="text-align: right;">Page 422</p> <p>1 Q My question to you is going to be 2 whether you recognize the document. 3 A I don't recall the document. 4 Q Okay. This is a document Bates-stamped 5 ENDO_OPIOID_MDL-01067350. 6 It's an e-mail from Albert Weeks. 7 A Yes. 8 Q Who is that? 9 A I know Albert Weeks. I don't recall his 10 title in the organization. 11 Q Okay. And he's e-mailing several 12 people, including yourself in the cc line, 13 correct? 14 A Correct. 15 Q That's on September 25th, 2008. The 16 subject is "TennCare Medicaid Win." Did I read 17 that correctly? 18 A Yes. 19 Q And he writes: "Tennessee field sales 20 team: TennCare has made a decision to add 21 Opana ER to their preferred drug list." 22 A Yes. 23 Q "This will provide product access to 24 Medicaid recipients and provide healthcare</p>	<p style="text-align: right;">Page 424</p> <p>1 where we have unrestricted access to truly 2 optimize your effort." 3 Did I read that correctly? 4 A Yes. 5 Q Do you know what Mr. Weeks was referring 6 to when he refers to "unrestricted access"? 7 A What I believe he's referring to -- and 8 again, this is his e-mail, so it's -- it's -- I 9 think he's referring that -- that patients, 10 whether they're Medicaid patients or they're 11 commercial patients, would have access for pain, 12 for Opana ER, so that physicians could be able to 13 prescribe the product and it would be covered 14 by -- 15 Q And is what -- I'm sorry. 16 A -- by healthcare providers. 17 Q And is what Mr. Weeks is describing here 18 having Tennessee's version of Medicare, TennCare, 19 add Opana ER to the preferred drug list, is that 20 going to have the effect of increasing the 21 potential prescribing power of doctors who want to 22 prescribe Opana ER to their patients? 23 MR. MORRIS: Objection. Form and 24 foundation.</p>
<p style="text-align: right;">Page 423</p> <p>1 providers with an additional option to treat 2 patients that require a strong opioid." 3 Did I read that correctly? 4 A Yes. 5 Q Okay. It says: "Medicaid represents an 6 additional opportunity to expand our business, and 7 in many cases, Medicaid can provide spillover 8 opportunities within your territory." 9 Did I read that correctly? 10 A Yes. 11 Q "However, we will also need to continue 12 to drive demand across the entire book of business 13 in order to maximize the full potential of 14 Opana ER." 15 Did I read that correctly? 16 A Yes. 17 Q And it says: "Ultimately we are 18 striving for an outcome where the Medicaid and 19 commercial opportunities work synergistically." 20 Correct? 21 A Yes. 22 Q And it says: "Therefore, you may want 23 to focus your efforts on key physicians who treat 24 both Medicaid patients and commercial patients</p>	<p style="text-align: right;">Page 425</p> <p>1 THE WITNESS: Yeah, I -- 2 BY MR. LENISKI: 3 Q If you know. 4 A Just to clarify, what -- what that 5 actually does is it provides the opportunity for 6 physicians who had Medicaid patients or TennCare 7 patients, they would be more likely to prescribe 8 because it was covered by a healthcare plan. 9 Q Were you involved ever in any efforts in 10 the state of Tennessee to attempt to have Opana ER 11 added to TennCare's preferred drug list? 12 A No, that would have been handled by 13 our -- our managed care group. 14 Q Do you know, in fact, if Endo did lobby 15 to have Opana ER placed on the preferred drug list in Tennessee? 16 A I don't know if it was a lobby. I don't 17 know how this took place. I just know that they 18 did win TennCare at some point. 19 Q Was Endo, to your knowledge, aware of 20 doctors or other healthcare professionals who were 21 involved in the decision-making where it concerns 22 the placement of Opana ER on TennCare's preferred 23 drug list?</p>

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<p>1 A Can -- can --</p> <p>2 MR. MORRIS: Objection to form.</p> <p>3 THE WITNESS: Can you repeat that --</p> <p>4 that question for me?</p> <p>5 BY MR. LENISKI:</p> <p>6 Q To your knowledge, was Endo aware of</p> <p>7 which doctors or healthcare professionals were</p> <p>8 involved in the decision-making where concerns of</p> <p>9 placement of Opana ER on TennCare's preferred drug</p> <p>10 list?</p> <p>11 A I'm not -- I'm not aware.</p> <p>12 Q And I asked you if you know if Endo was</p> <p>13 aware, others at Endo were aware.</p> <p>14 A I don't know.</p> <p>15 Q Okay. I'm done with that.</p> <p>16 A Okay.</p> <p>17 (Romaine Exhibit No. 50 was marked</p> <p>18 for identification.)</p> <p>19 MR. LENISKI: I have one more copy. I</p> <p>20 apologize.</p> <p>21 BY MR. LENISKI:</p> <p>22 Q Did I give you the one that I wrote on?</p> <p>23 A No. Oh, unless it's on the back. No.</p> <p>24 Q Okay, got one more. Here you go.</p>	<p>1 been -- do you want the name?</p> <p>2 Q Yes.</p> <p>3 A Brian Lortie.</p> <p>4 Q Okay. And under item number 3, "Pain</p> <p>5 products" --</p> <p>6 A Yes.</p> <p>7 Q -- it says: "Exceed revenue and profit</p> <p>8 objectives across total portfolio."</p> <p>9 A Yes.</p> <p>10 Q And then Roman numeral II says:</p> <p>11 "Opana ER, 315 to 325 million," correct?</p> <p>12 A Correct.</p> <p>13 Q And then it says: "Stretch objective."</p> <p>14 Do you know what that means?</p> <p>15 MR. MORRIS: Objection. Form and</p> <p>16 foundation.</p> <p>17 THE WITNESS: I -- I don't recall at the</p> <p>18 time.</p> <p>19 BY MR. LENISKI:</p> <p>20 Q Was that a term that was used in</p> <p>21 parlance in Endo during your tenure to describe a</p> <p>22 goal or an objective that someone may set for</p> <p>23 somebody?</p> <p>24 A It could have been. I -- but I don't</p>
<p>1 I've handed you a document we've</p> <p>2 identified as Exhibit 50 to your deposition. Do</p> <p>3 you recognize the document?</p> <p>4 A I -- it looks familiar. I don't</p> <p>5 remember, but it looks familiar.</p> <p>6 Q And it says, "Larry Romaine, 2011" --</p> <p>7 MR. MORRIS: Before you go on, can I</p> <p>8 read the number?</p> <p>9 MR. LENISKI: Sure, absolutely.</p> <p>10 MR. MORRIS: It's ENDO_OPIOID_</p> <p>11 MDL-01006528.</p> <p>12 MR. LENISKI: Thank you.</p> <p>13 BY MR. LENISKI:</p> <p>14 Q This says at the top "Larry Romaine,</p> <p>15 2011 Objectives," correct?</p> <p>16 A Correct.</p> <p>17 Q Do you think -- is it likely you drafted</p> <p>18 this document?</p> <p>19 A I have a -- I think these were the</p> <p>20 object -- objectives that I probably received that</p> <p>21 I was responsible for.</p> <p>22 Q And who would have assigned you those</p> <p>23 objectives, to your knowledge?</p> <p>24 A My manager at the time, which would have</p>	<p>1 recall.</p> <p>2 Q Okay. It says: "Develop a competitive</p> <p>3 focus on OxyContin share acquisition."</p> <p>4 What did that mean?</p> <p>5 MR. MORRIS: Objection. Form.</p> <p>6 THE WITNESS: I'm not quite sure what --</p> <p>7 going back now, I don't quite remember what --</p> <p>8 what -- what Brian is referring to there.</p> <p>9 BY MR. LENISKI:</p> <p>10 Q Do you recall any effort by Endo to try</p> <p>11 and acquire the OxyContin market share away from</p> <p>12 OxyContin towards Opana ER?</p> <p>13 A Well, OxyContin was the market leader,</p> <p>14 so it was always -- you know, our focus is that if</p> <p>15 we're going into those offices, it's highly likely</p> <p>16 that those physicians are prescribing OxyContin.</p> <p>17 So you have to provide a full, fair balance of the</p> <p>18 benefits that Opana would provide to that office</p> <p>19 and their patients if they're prescribing it.</p> <p>20 So...</p> <p>21 Q Was focusing on OxyContin's share</p> <p>22 acquisition a consistent goal or effort by the</p> <p>23 sales department at Endo, to your knowledge?</p> <p>24 A I -- I --</p>

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<p style="text-align: right;">Page 430</p> <p>1 MR. MORRIS: Objection. Form. 2 THE WITNESS: I don't recall. 3 BY MR. LENISKI: 4 Q Then it goes on: "-- and create a novel 5 IC approach in key CBSAs." Correct? 6 A Yes. 7 Q Okay. I'm going to try to break that 8 out. First of all, what is a CBSA? 9 A I -- I remember the term CBSA, but I 10 can't remember what it stands for, but it's a 11 geographic -- basically what it is is a geographic 12 area. We used to call them MSAs, which were 13 metropolitan areas, but I don't know what a CB -- 14 C -- SA is. I'm sorry. 15 Q But that -- as you sit here today, the 16 best of your recollection is it refers to a 17 geographic area. 18 A Correct. 19 Q Okay. And then what is meant by "create 20 a novel IC approach"? 21 A I think at the time we were looking 22 at -- looking at different incentive comp plans 23 based on the parts of the country that 24 representatives happened to be, but that never --</p>	<p style="text-align: right;">Page 432</p> <p>1 MR. MORRIS: Objection. Form, 2 foundation. 3 THE WITNESS: I -- I don't -- I don't 4 recall. 5 BY MR. LENISKI: 6 Q Did Endo have region-specific business 7 strategies as opposed to having one overarching 8 unitary strategy for the whole company? 9 A Each region had their own business plan. 10 And then that rolled up to a national plan or 11 rolled down from the national plan to the region, 12 but I don't specifically remember any content of 13 it. 14 Q Okay. We're done with that. 15 (Romaine Exhibit No. 51 was marked 16 for identification.) 17 BY MR. LENISKI: 18 Q Mr. Romaine, I've handed you a document 19 identified as Exhibit -- what number's on this 20 one? What is that, 52? 21 A 51. 22 Q 51, I apologize. It is Bates-stamped 23 first page ENDO_OPIOID_MDL-00361036. 24 My question to you is if you recognize</p>
<p style="text-align: right;">Page 431</p> <p>1 that never occurred. 2 Q So IC stands for incentive compensation? 3 A I think that's what he's referring to 4 here. 5 Q Okay. And when it refers to key CBSAs, 6 was there a general understanding of what the key 7 CBSAs were at Endo about this time of 2011? 8 A Well, I believe he's referring to each 9 of the regions is what he's referring to as far as 10 CBSAs. 11 Q And a CBSA would be a subsection of a 12 region at large; is that correct? 13 A I -- 14 MR. MORRIS: Objection. Form. 15 THE WITNESS: I don't know that. I -- I 16 don't recall how that was broken out. 17 BY MR. LENISKI: 18 Q Okay. And then to the second page, 19 there's a number 5, it says: "Operationalize the 20 region business unit strategy." 21 Do you see that? 22 A Yes. 23 Q And what does that mean, "the region 24 business unit strategy," to your knowledge?</p>	<p style="text-align: right;">Page 433</p> <p>1 the document. 2 A I don't recognize it. 3 Q This is an e-mail from John Gilbert, and 4 I think you talked about him earlier, correct? 5 A Correct. 6 Q And it's addressed to, among others, 7 yourself dated February 11th, 2011. 8 A Yes. 9 Q Do you see that? 10 A Actually I'm copied on it. It's 11 addressed to others, but I'm copied on it. 12 Q That's fair. 13 And he writes: "Team: Everyone should 14 be looking for the same opportunities to drive the 15 growth of Opana ER." 16 Did I read that correctly? 17 A Yes. 18 Q And before we get too far ahead, in the 19 bottom e-mail, he -- he's actually forwarding an 20 e-mail from someone named Robert Arment. 21 A Yes. 22 Q Do you know who that is? 23 A He was a district manager in the state 24 of Tennessee.</p>

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<p style="text-align: right;">Page 434</p> <p>1 Q Okay. And the subject of his e-mail 2 below is: "Don't Be Blue. Opana ER, BCBS" -- 3 That's Blue Cross Blue Shield, correct? 4 A Yes. 5 Q -- "of Tennessee Initiative - Update." 6 And he is -- in that e-mail, he is 7 reporting on some data about the numbers that 8 they've received from Blue Cross Blue Shield 9 Tennessee which shows prescribing levels of 10 Opana ER, correct? 11 A Yes. I just can't read the -- whatever 12 was highlighted at the -- in Bob's e-mail, I can't 13 read that. 14 Q I think it says: "Baseline data is the 15 current three-month average scripts written for 16 BCBS of Tennessee" -- 17 A Oh, Blue Cross Blue Shield. Okay. 18 Q -- "commercial patients as of the 19 December 2011 from the Vantage Care" -- I think it 20 says PU, but I'm not sure. 21 A Okay. 22 Q Pull-through report maybe? 23 A Okay. 24 Q Does that sound familiar --</p>	<p style="text-align: right;">Page 436</p> <p>1 CBSA because it was within his region. Just 2 nationally it wasn't a key one. 3 Q And is that -- was that your opinion the 4 entire time you were at Endo? 5 MR. MORRIS: Objection to form. 6 THE WITNESS: I -- I -- I don't recall. 7 BY MR. LENISKI: 8 Q In other words, do you have any 9 recollection that Tennessee or any of its cities, 10 like Knoxville, ever gained an importance or being 11 a key area for Opana ER sales territory? 12 A I -- I don't remember Knoxville being a 13 key area. 14 Q Okay. 15 (Romaine Exhibit No. 52 was marked 16 for identification.) 17 BY MR. LENISKI: 18 Q I hand you a document identified as 19 Exhibit 52 to your deposition. And this is a 20 document Bates-stamped ENDO_OPIOID_MDL-01005844. 21 The question will be if you recognize 22 the document. 23 A I don't recognize the document, but I -- 24 I am copied on the document.</p>
<p style="text-align: right;">Page 435</p> <p>1 A Yes. 2 Q -- pull-through report? 3 A Yes. 4 Q Okay. So going back then to the e-mail 5 above, John writes to others, and is copying you, 6 says: "Everyone should be looking for the same 7 opportunities to drive the growth of Opana ER." 8 He makes the statement: "Knoxville is a key CBSA 9 for the region." 10 Did I read that correctly? 11 A Yeah. Yes. 12 Q And is that something that you were 13 aware of during your time at Endo? 14 A That Knoxville was a key? 15 Q Yes. 16 A I wouldn't have -- I personally wouldn't 17 have said it was key just because of 18 geographically it wasn't as big as many of the 19 other markets, but to John it might have been in 20 his -- his business unit. 21 Q And did you ever correct John or express 22 your opinion to John, do you recall, that you 23 didn't think Knoxville was a key CBSA? 24 A Well, to John it could have been a key</p>	<p style="text-align: right;">Page 437</p> <p>1 Q Okay. And this document is another 2 e-mail forward from John Gilbert, similar in 3 subject to the one we saw previously. He's 4 forwarding an e-mail titled "BCBS-TN," Tennessee, 5 "Opana ER Performance," correct? 6 A Correct. 7 Q And he writes above: "Tennessee 8 leaders," and he is including you as a copy, so he 9 wants you to know about this, correct? 10 A Correct. 11 Q He writes: "As evidenced by Bonnie 12 below, we have strong business in the state of 13 Tennessee, and I -- I would ask that this week 14 during your POA you reinforce the ownership that 15 we need to have with the Opana ER brand." 16 Did I read that correctly? 17 A Yes. 18 Q Okay. And the -- his message is going 19 to -- it's addressed to several individuals, and 20 do you know who the individuals are? 21 A They were his district managers at the 22 time. 23 Q Okay. So that district included the 24 state of Tennessee, correct?</p>

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<p>1 A Correct. 2 (Romaine Exhibit No. 53 was marked 3 for identification.) 4 BY MR. LENISKI: 5 Q I hand you a document identified as 6 Exhibit 53 to your deposition. This is Bates- 7 stamped ENDO_OPIOID_MDL-01018226. 8 A Yes. 9 Q Do you recognize the document? 10 A I don't recognize the document, but I 11 have -- I have the copy in front of me. 12 Q Okay. And this is an e-mail from 13 Kenneth Price, correct? 14 A Yes. 15 Q And he was the regional business manager 16 for the Midwest region include -- which included 17 Tennessee, correct? 18 A Correct. I think there were changes to 19 geographies over time, yes, so he would have 20 picked it up from John. 21 Q But at this time, as of the date of this 22 e-mail, which is November 30th, 2012, he was the 23 regional business director for the Midwest region, 24 correct?</p>	<p>1 foundation for 2013." 2 Did I read that correctly? 3 A Yes. 4 Q Okay. And did you have that 5 understanding as of this time while you were at 6 Endo that Mr. Price believed that Tennessee and 7 Kentucky markets were critical to rebuilding and 8 growing the Opana ER business? 9 MR. MORRIS: Objection. Form and 10 foundation. 11 THE WITNESS: I do believe he believed 12 it, yes. 13 BY MR. LENISKI: 14 Q And did you -- you're saying you didn't 15 believe that? 16 A No. The question I think you asked 17 is -- was -- did Kenny Price believe that this was 18 critical, and I do believe he did. 19 Q Okay. And did you have any similar 20 opinion about Tennessee and Kentucky being 21 critical to rebuilding and growing ER -- Opana ER 22 business? 23 A Yeah, I can't say I specifically recall 24 those two states as -- as critical overall.</p>
<p style="text-align: center;">Page 439</p> <p>1 A Correct. 2 Q Which again included Tennessee at this 3 time. 4 A Yes. 5 Q Okay. And he -- he reported to you; is 6 that accurate? 7 A That's -- that's correct. 8 Q Okay. And he copies you on an e-mail 9 that he writes to a list of individuals, and would 10 those have been district managers within his 11 region? 12 A Yes. Yes. 13 Q And he writes: "Thank you for your 14 leadership in coordinating the Opana ER conference 15 call with the Tennessee and Kentucky teams today 16 and sharing the product knowledge, competitive 17 information, and therapeutic knowledge to the 18 reps. I really appreciate everyone's commitment, 19 drive and passion to make Opana ER very successful 20 again. 21 As I've discussed, the Tennessee and 22 Kentucky markets are critical to rebuilding and 23 growing our Opana ER business as we close out 24 2012, but also build a strong platform and</p>	<p style="text-align: center;">Page 441</p> <p>1 Q And I may have asked you before, but we 2 talked a little bit at the opening of your 3 deposition about your understanding about the 4 relative level of opioid abuse in the state of 5 Tennessee. Do you recall that? 6 A Yes. 7 Q And with respect to specific instances 8 of abuse in Tennessee with respect to Opana ER, 9 what was your knowledge, do you recall? 10 A My knowledge -- my knowledge of -- 11 the -- can you restate the question? 12 Q Did you have any knowledge of particular 13 instances of abuse in -- that occurred in 14 Tennessee with respect to Opana ER during your 15 employment in sales at Endo? 16 A I didn't have any knowledge of any 17 specific situation where there was abuse that took 18 place. 19 Q Could you find Exhibit 48 for me that 20 you were shown earlier. 21 It would have been some of the last -- 22 one of the last documents you were shown. 23 A Yeah, unfortunately, they're not in 24 sequence any longer.</p>

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<p style="text-align: center;">Page 442</p> <p>1 THE WITNESS: Did you -- can you find 2 it?</p> <p>3 MR. MORRIS: I can -- I have it for you 4 here.</p> <p>5 THE WITNESS: Do you mind if I look at 6 his?</p> <p>7 BY MR. LENISKI:</p> <p>8 Q Yes.</p> <p>9 A Okay.</p> <p>10 Q Exhibit 48, you were asked some 11 questions about -- and this was with respect to 12 the abuse that had occurred where Endo discovered 13 that patient -- or that individuals were 14 injecting --</p> <p>15 A Mm-hmm.</p> <p>16 Q -- the reformulated Opana ER. Is 17 that -- is that correct?</p> <p>18 A Yes, that's correct.</p> <p>19 Q Okay. And we didn't -- you weren't 20 asked questions about this specifically, but 21 according to this e-mail, those cases were being 22 reported at least some of that was occurring in 23 Tennessee.</p> <p>24 A Okay.</p>	<p style="text-align: center;">Page 444</p> <p>1 the reformulated Opana ER that Endo was receiving 2 about this time of October of 2012 change any of 3 the messaging that Endo sales reps were using in 4 the state of Tennessee specifically?</p> <p>5 MR. MORRIS: Objection to form.</p> <p>6 THE WITNESS: I don't recall at the time 7 if it actually changed the -- the messaging. I 8 think we stayed focused on the package insert to 9 promote the product. They were always educated 10 and looking for diversion, things like that, so 11 they could report it to our compliance department. 12 But from a training perspective and from the 13 messaging that they brought to those offices, it 14 did not change.</p> <p>15 BY MR. LENISKI:</p> <p>16 Q So these reports of abuse occurring in 17 Tennessee did not alter to your knowledge any of 18 the messaging that reps in the state of Tennessee 19 specifically were delivering to their targets?</p> <p>20 MR. MORRIS: Objection. Form and 21 foundation.</p> <p>22 THE WITNESS: I don't recall that that 23 actually took place.</p> <p>24 BY MR. LENISKI:</p>
<p style="text-align: center;">Page 443</p> <p>1 Q Correct?</p> <p>2 A Yes.</p> <p>3 Q Okay. And as you sit here today, do you 4 recall -- does that refresh your recollection at 5 all about -- the reports about the IV or 6 injecting -- injectable abuse of reformulated 7 Opana ER occurring in Tennessee about this time?</p> <p>8 A Yeah, after our discussion today, I do 9 recall this memo in which it highlighted that some 10 of those cases occurred in Tennessee.</p> <p>11 Q Okay. And specifically, do you recall 12 that that was occurring in East Tennessee or in 13 the Appalachia region?</p> <p>14 A I don't recall specifically the 15 geography of Tennessee.</p> <p>16 Q Okay. And in the e-mail you were asked 17 some questions about your comment in the e-mail at 18 the top of Exhibit 48 where you said: "Our 19 promotion of Opana ER is business as normal."</p> <p>20 A Yes.</p> <p>21 Q Do you recall that?</p> <p>22 A Yes.</p> <p>23 Q To the best of your recollection, did 24 any of the reports about the intravenous abuse of</p>	<p style="text-align: center;">Page 445</p> <p>1 Q Do you recall whether Endo restricted or 2 otherwise -- or stopped or otherwise restricted 3 the selling or detailing of Opana ER in the state 4 of Tennessee in reaction to receiving these 5 reports about intravenous abuse in the 6 reformulated ER?</p> <p>7 A I don't recall that.</p> <p>8 (Romaine Exhibit No. 54 was marked 9 for identification.)</p> <p>10 BY MR. LENISKI:</p> <p>11 Q Mr. Romaine, I've handed you a document 12 we've identified as Exhibit 55 (sic) to your 13 deposition. This is ENDO_OPIOID_MDL-02317224. 14 Do you recognize the document?</p> <p>15 A I don't recognize the document.</p> <p>16 Q Okay. The top e-mail in this chain is 17 from yourself to Mike Newbould -- I'm sorry, Bill 18 Newbould, correct?</p> <p>19 A Yes.</p> <p>20 Q And it's dated September 11th, 2006.</p> <p>21 A Yes.</p> <p>22 Q Who is Bill Newbould?</p> <p>23 A Bill Newbould was in -- I -- I think he 24 was in corporate communications. It's 12 years</p>

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<p>1 ago -- 13 years ago, hard to remember, but I think 2 he was in corporate communications.</p> <p>3 Q Okay. And the first e-mail in this 4 chain looks -- well, actually, go to the second 5 e-mail --</p> <p>6 A Yes.</p> <p>7 Q -- down, do you see from Amy Romero?</p> <p>8 A Yes.</p> <p>9 Q And she's writing to yourself and Mike 10 Weber on December 8th.</p> <p>11 A Yes.</p> <p>12 Q And she's forwarding what's called 13 Requests for Information. Do you see that?</p> <p>14 A Yes.</p> <p>15 Q And she says: "Can you help with the 16 DM/rep request below from Bill N.? Thanks, guys." 17 Correct?</p> <p>18 A Correct.</p> <p>19 Q Okay. And if you look through the 20 e-mail, and you -- you can have every opportunity 21 to read it if you wish, but I'm going to point you 22 specifically to the very first e-mail in the 23 chain, which looks like it came from someone named 24 Terry Brimer at Midtown Drug Company in</p>	<p>1 that would be responsible for responding back to 2 that individual at that time.</p> <p>3 Q Okay. Now, was it your practice at Endo 4 or part of your job duties to field such concerns 5 being received by reps in the field from 6 pharmacists or other healthcare prescribers with 7 respect to their thoughts or opinions about 8 Opana ER?</p> <p>9 A No.</p> <p>10 Q Well, do you know why this was brought 11 to your attention?</p> <p>12 A I don't know, other than -- the only 13 thing I can think of is if -- if they thought 14 someone might have the knowledge of this 15 individual or who it might be so they knew how to 16 respond back to him.</p> <p>17 Q Okay. Well, in your e-mail at the very 18 top of the exhibit, you write: "We have 19 identified where this pharmacist is located and 20 plan to see him next week, as we will have a 21 specialty rep in that area."</p> <p>22 Did I read that correctly?</p> <p>23 A Yes.</p> <p>24 Q Do you know in fact -- were you</p>
<p style="text-align: center;">Page 447</p> <p>1 Morristown, Tennessee. 2 Do you see that e-mail?</p> <p>3 A Yes.</p> <p>4 Q And he's addressed it to "Customer 5 Service."</p> <p>6 A I'm trying to -- okay. Yes.</p> <p>7 Q And he says in his e-mail: "I just 8 received info in the mail regarding Opana. Every 9 time that I think the greed of the drug companies 10 has peaked, someone comes out with something like 11 this, exorbitant and useless. To stock this, I 12 must spend \$2,291. Equipped with it, we can 13 addict a whole new generation. We have no choice 14 here but to phone prescribers when they write this 15 stuff, share with them the criminal cost involved, 16 and plead for a different drug. You should be 17 ashamed."</p> <p>18 Did I read that correctly?</p> <p>19 A Yes.</p> <p>20 Q Okay. And then if we pour through the 21 chain, there is a suggestion from Mr. Newbould as 22 to how -- a potential response to Dr. Brimer, 23 correct?</p> <p>24 A Yes. Bill Newbould would be the person</p>	<p style="text-align: center;">Page 449</p> <p>1 referring to you were going to go see him or -- or 2 we as in someone from Endo is going to go see him?</p> <p>3 A I think someone from Endo was going to 4 see him.</p> <p>5 Q Okay. So you don't have any 6 recollection of you specifically --</p> <p>7 A No.</p> <p>8 Q -- going to see this pharmacist.</p> <p>9 A No.</p> <p>10 Q Okay. Then you write: "He was called 11 on in July during the stocking blitz."</p> <p>12 A Right.</p> <p>13 Q Do you know what that refers to?</p> <p>14 MR. MORRIS: Objection. Form and 15 foundation.</p> <p>16 THE WITNESS: Stocking blitz typically 17 is when we have a new product that's on the 18 market, to go out and stock the product in the 19 pharmacies.</p> <p>20 BY MR. LENISKI:</p> <p>21 Q Okay. And so about this time of 22 September 2006 that was happening with Opana ER. 23 Is that your recollection?</p> <p>24 A Yes. That would have been about the</p>

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<p>1 time frame in which we would have been stocking 2 the product.</p> <p>3 Q Okay. And how does a stocking blitz 4 occur? What's the -- what are the particulars of 5 that?</p> <p>6 A They typically would have a stocking 7 sheet with information on the -- the -- the ID 8 number for -- for the product that they could 9 order through their wholesaler and the pricing, 10 and they would deliver that, and then the -- the 11 pharmacist would order it into their store.</p> <p>12 Q Okay. And was that something under your 13 umbrella of responsibility or someone else's?</p> <p>14 A No, typically it would be under somebody 15 else's responsibility, into our managed care team.</p> <p>16 Q Okay. And then you go on: "We will get 17 to the issues with Terry and see how we can be 18 supportive." Correct?</p> <p>19 A Correct.</p> <p>20 Q And when you say Terry, I guess you're 21 referring to --</p> <p>22 A I think that must be -- yeah, the 23 person's name is Terry.</p> <p>24 Q Okay. Did -- did you know Terry Brimer?</p>	<p>1 ultimately convinced that he was wrong about his 2 opinions about Opana ER?</p> <p>3 A I don't recall. (Romaine Exhibit No. 55 was marked 5 for identification.)</p> <p>6 BY MR. LENISKI:</p> <p>7 Q I hand you Exhibit 50 -- what is that?</p> <p>8 A Five.</p> <p>9 MR. MORRIS: You handed him 55, but I 10 think we're on 56. No? (A discussion was held off the record.)</p> <p>11 THE WITNESS: No, 50 -- yeah, this was 13 54.</p> <p>14 MR. MORRIS: Oh, I see. I think maybe 15 you said 55 when you meant 54. But it's been 16 marked as 54, so we're now on 55.</p> <p>17 MR. LENISKI: Okay.</p> <p>18 THE WITNESS: Okay.</p> <p>19 BY MR. LENISKI:</p> <p>20 Q I hand you Exhibit 55. This is a 21 document Bates-stamped EPI001232307. Correct?</p> <p>22 A Correct.</p> <p>23 Q Do you recognize the document?</p> <p>24 A I don't recognize the specific document,</p>
<p>1 A No.</p> <p>2 Q Okay. And then you write: "As an FYI, 3 he is on the board for TennCare."</p> <p>4 A Yeah.</p> <p>5 Q And why did you write that?</p> <p>6 A Just so --</p> <p>7 MR. MORRIS: Object to form.</p> <p>8 THE WITNESS: I think at the time just 9 because that was a fact, he's on the board for 10 TennCare.</p> <p>11 BY MR. LENISKI:</p> <p>12 Q Did -- was it important to you and the 13 purpose of writing that -- scratch that.</p> <p>14 Was it -- were you intending to impart 15 on the recipient of that message that this person 16 is on the board for TennCare, that they needed to 17 pay extra attention to this person because he is 18 somebody who has potential influence with 19 TennCare, which could potentially have something 20 to do with how Opana ER gets placed with TennCare?</p> <p>21 A I -- I don't recall. This is 13 years 22 ago. I don't recall why I was -- why I put that 23 in there.</p> <p>24 Q Okay. Do you know if Dr. Brimer was</p>	<p>1 but I recognize John Gilbert wrote this document.</p> <p>2 Q And he wrote it to you on November 4th, 3 2011?</p> <p>4 A Correct.</p> <p>5 Q It says: "Larry, attached is 6 documentation for our one-to-one on Tuesday, as 7 well as some additional backup on performance 8 versus goals." Correct?</p> <p>9 A Correct.</p> <p>10 Q And when he says "one-to-one," do you 11 know what he's referring to there?</p> <p>12 A We were going to have a one-on-one 13 business meeting.</p> <p>14 Q Okay. And below he writes under the 15 header: "Feedback for Larry Romaine." Do you see 16 that?</p> <p>17 A Yes.</p> <p>18 Q He says: "Ideally you need dedicated 19 government affairs director. Significant public 20 and political issues related to opioid abuse and 21 diversion will increase substantially in 2012."</p> <p>22 Did I read that correctly?</p> <p>23 A Yes.</p> <p>24 Q Do you recall discussing that with</p>

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<p>1 Mr. Gilbert during your one-to-one?</p> <p>2 A I don't recall this specifically, but I 3 had one-on-ones routinely with all the directors.</p> <p>4 Q Well, this is a topic about significant 5 public and political issues related to opioid 6 abuse and diversion increasing substantially in 7 2012. Was that discussed?</p> <p>8 A I don't recall specifically discussing 9 this issue, but it's on his report, so I assume -- 10 or I'm sure we did discuss it.</p> <p>11 Q Were you generally aware of others' 12 opinions at Endo similar to Mr. Gilbert's that 13 issues relating to opioid abuse and diversion 14 would increase substantially in 2012?</p> <p>15 A I was not --</p> <p>16 MR. MORRIS: Objection. Form and 17 foundation.</p> <p>18 THE WITNESS: I was not aware of that.</p> <p>19 BY MR. LENISKI:</p> <p>20 Q Did you ever find out why Mr. Gilbert 21 felt that way?</p> <p>22 A I'm sure -- I don't recall specifically 23 that issue, but I'm sure we had a discussion about 24 it.</p>	<p>1 A Correct.</p> <p>2 Q -- "TRx's in the United States, second 3 to New York only." Correct?</p> <p>4 A Correct.</p> <p>5 Q Okay. So according to Mr. Gilbert then, 6 if that's to be believed that the state of 7 Tennessee contributes the second highest number of 8 Opana ER prescriptions in the United States, then 9 that puts Tennessee in a very key position as 10 Endo's concern, correct?</p> <p>11 MR. MORRIS: Objection. Form and 12 foundation.</p> <p>13 THE WITNESS: I don't know that -- the 14 validity of this, whether he was correct or not. 15 I don't recall that. But I'm sure if we discussed 16 it, we would have -- we would have triaged it to 17 the right individuals in the organization that 18 would have helped and supported him.</p> <p>19 BY MR. LENISKI:</p> <p>20 Q But you would agree, if he's correct 21 that Opana ER prescriptions in Tennessee are the 22 second highest in the nation, then that makes 23 Tennessee a very important state to Endo in terms 24 of Opana ER sales, correct?</p>
<p style="text-align: center;">Page 455</p> <p>1 Q So as you sit here today, you have no 2 recollection as to the basis for his statement 3 about abuse and diversion of opioids increasing 4 substantially in 2012?</p> <p>5 A I'm sure he was looking for additional 6 support. HR -- you know, individual people's 7 support for his region.</p> <p>8 Q Support in what sense, can you explain 9 that?</p> <p>10 A I was -- I'm just reading the e-mail, it 11 says "government affairs director." He's looking 12 for a government affairs director for his -- for 13 his -- his region.</p> <p>14 Q Okay. Then he goes on: "Need 15 additional resources and buy-in from internal 16 partners to pursue partnership opportunities with 17 Endo, key political leaders and law enforcement in 18 the Mid-Atlantic, specifically in the states of 19 Tennessee, Virginia and West Virginia." Correct?</p> <p>20 A Correct.</p> <p>21 Q And then he writes: "The state of 22 Tennessee contributes the second highest number of 23 OER" --</p> <p>24 That's Opana ER, correct?</p>	<p style="text-align: center;">Page 457</p> <p>1 MR. MORRIS: Objection. Form and 2 foundation.</p> <p>3 THE WITNESS: I -- I just don't -- I 4 don't -- I don't know whether that statement is 5 actually true, that it's the second highest. I 6 don't know that. I don't remember that, I should 7 say.</p> <p>8 BY MR. LENISKI:</p> <p>9 Q I understand, but --</p> <p>10 A Yeah.</p> <p>11 Q -- if that's true, then that would have 12 made -- you certainly would have wanted to make 13 sure that Mr. Gilbert had the resources he needed 14 to commit to Tennessee because Tennessee --</p> <p>15 A Sure.</p> <p>16 Q -- would have been very important to 17 Endo, correct?</p> <p>18 A Right.</p> <p>19 MR. MORRIS: Objection to form and 20 foundation.</p> <p>21 BY MR. LENISKI:</p> <p>22 Q And if you go over to the page that ends 23 17 in this document, this would be -- this part of 24 the e-mail, this would be an attachment to the</p>

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<p>1 e-mail that Mr. Gilbert would have put together, 2 correct?</p> <p>3 A Correct.</p> <p>4 Q In the third bullet down, he writes: 5 "Abuse/diversion issues will be a key area of 6 concern in Tennessee, West Virginia and Kentucky 7 in 2012." Correct?</p> <p>8 A Correct.</p> <p>9 Q Do you recall discussing that point with 10 Mr. Gilbert in your one-on-one?</p> <p>11 A I don't recall specifically discussing 12 that with him.</p> <p>13 Q Do you recall, in general, awareness 14 that abuse and diversion issues would be a key 15 area of concern as far as Endo is concerned in 16 Tennessee, West Virginia, and Kentucky in 2012?</p> <p>17 MR. MORRIS: Objection to form and 18 foundation.</p> <p>19 THE WITNESS: Can -- can you repeat the 20 question again? I'm sorry.</p> <p>21 BY MR. LENISKI:</p> <p>22 Q Yeah. Did you have a general 23 awareness -- do you recall having a general 24 awareness, rather, that abuse and diversion was a</p>	<p>1 Q This is an exhibit we've labeled 56 to 2 your deposition. It's ENDO_OPIOID_MDL-01007694. 3 Do you recognize the document?</p> <p>4 A It's an e-mail that -- that I had sent 5 back to John Gilbert.</p> <p>6 Q Okay. And you're responding to an 7 e-mail from Mr. Gilbert below dated June 25th, 8 2012, correct?</p> <p>9 A Correct.</p> <p>10 Q Okay. And he starts the e-mail saying: 11 "Larry, just a bit of commentary directly from 12 some of the footprints and DMs that are performing 13 at the lower end of goal attainment in the 14 Mid-Atlantic region." Correct?</p> <p>15 A Correct.</p> <p>16 Q If you skip down, do you see the header 17 "N Knoxville"?</p> <p>18 A Yes.</p> <p>19 Q That's -- do you understand that meant 20 North Knoxville?</p> <p>21 A Yes.</p> <p>22 Q Okay. And he writes: "Goal attainment 23 is currently 76 percent. Prior to supply 24 disruption in the state of Tennessee" -- I'm</p>
<p style="text-align: center;">Page 459</p> <p>1 key area of concern in Tennessee, West Virginia, 2 and Kentucky for Endo in 2012?</p> <p>3 A Well, I -- I do recall -- I remember, 4 and we talked about it earlier, that we -- the 5 area of Appalachia, that there was a concern that 6 there was diversion taking place, and that we 7 ensured the reps were trained on our diversion 8 process and how to -- how to report that.</p> <p>9 Q Okay. And was that topic or issue 10 discussed with -- frequently at Endo?</p> <p>11 A I don't know if I can use the word 12 "frequently," but it was discussed.</p> <p>13 Q Okay.</p> <p>14 MR. MORRIS: Okay. So, Counsel, when we 15 were off the record, I asked you how long you had, 16 and you said about 30 or 45 minutes, and we've 17 been going about 45. How much longer?</p> <p>18 MR. LENISKI: I've got -- hold on. 19 Thanks for your patience.</p> <p>20 We're on 56 now, right?</p> <p>21 THE WITNESS: Yes. 22 (Romaine Exhibit No. 56 was marked 23 for identification.)</p> <p>24 BY MR. LENISKI:</p>	<p style="text-align: center;">Page 461</p> <p>1 sorry. Let me start over. 2 "Prior to supply disruption, the state 3 of Tennessee had the highest OER volume of any 4 state in the country."</p> <p>5 Did I read that correctly?</p> <p>6 A Yes.</p> <p>7 Q Okay. And he says: "See the below 8 quotes from representatives in this footprint 9 based on their local knowledge. With such high 10 volume, the one unknown is the percent of abuse 11 that has now been curtailed by the new formulation 12 and gone to a non-TRF product."</p> <p>13 Did I read that correctly?</p> <p>14 A Yes.</p> <p>15 Q So he's expressing with that last 16 sentence that this is occurring at a time when the 17 reformulated Opana ER is on the market, and there 18 is also generic Opana ER on the market, correct?</p> <p>19 MR. MORRIS: Objection. Form.</p> <p>20 THE WITNESS: Plus we had a supply 21 outage at the same time, yes.</p> <p>22 BY MR. LENISKI:</p> <p>23 Q Okay. So if you look over to one of the 24 quotes from one of the representatives in this</p>

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<p style="text-align: center;">Page 462</p> <p>1 Knoxville footprint, that second bullet on the 2 second page of the exhibit.</p> <p>3 A Okay. Yeah.</p> <p>4 Q That rep states: "We believe" -- and 5 there's a -- it's a quote from the rep, correct?</p> <p>6 A Yes.</p> <p>7 MR. MORRIS: Objection. Form, 8 foundation.</p> <p>9 BY MR. LENISKI:</p> <p>10 Q And that's your understanding of what 11 Mr. Gilbert was saying, this was a quote from a 12 rep in his territory, correct?</p> <p>13 A Correct.</p> <p>14 Q Okay. It says: "We believe that 15 several of the patients in our footprint were 16 abusing the previous formulation of Opana ER. 17 Here are some signs we witnessed: Patients 18 requested the old formulation of Opana ER at the 19 pharmacy, asked the providers in some instances to 20 switch them from 40 milligrams of Opana ER to 21 generic 15 milligrams, and they complained about 22 adverse events so that -- so they could be 23 switched from 30 milligrams of Opana ER to two 24 15-milligram pills of generic formulation."</p>	<p style="text-align: center;">Page 464</p> <p>1 particular quote from this particular rep with 2 John?</p> <p>3 A I don't recall discussing this 4 particular quote --</p> <p>5 Q Okay.</p> <p>6 A -- with John.</p> <p>7 Q I've got one more exhibit for you.</p> <p>8 57. This is one of those fun oversized 9 ones.</p> <p>10 (Romaine Exhibit No. 57 was marked 11 for identification.)</p> <p>12 BY MR. LENISKI:</p> <p>13 Q I've handed you a document that we've 14 labeled Exhibit 57 to your deposition. The cover 15 is an e-mail that's Bates-stamped EPI002036707.</p> <p>16 A Yes.</p> <p>17 Q I will represent to you that we have 18 only attached an excerpt from the attachment to 19 the e-mail in Exhibit 57. And there's a -- should 20 be a cover page that explains that. So it's a -- 21 it's a demonstrative --</p> <p>22 A Okay.</p> <p>23 Q -- as well.</p> <p>24 A Okay.</p>
<p style="text-align: center;">Page 463</p> <p>1 With me so far?</p> <p>2 A Yes.</p> <p>3 Q I have even had pharmacies tell me that 4 patients are calling them acting like they are 5 with the Opana ER pharmacy locator service. They 6 are asking if the pharmacy in question carries the 7 old formulation of Opana ER."</p> <p>8 Did I read that correctly?</p> <p>9 A Yes.</p> <p>10 Q Did you -- upon receiving this 11 information from Mr. Gilbert about one of his -- 12 one of his reps in this territory said, did you do 13 anything with this information?</p> <p>14 A I don't recall the e-mail, this specific 15 e-mail. But what would have happened, we would 16 have triaged this to our compliance department for 17 an investigation. So we had processes in place is 18 what I'm saying to do the investigations.</p> <p>19 Q And who would have been responsible for 20 taking or initiating that triage?</p> <p>21 A John would have been responsible for 22 kicking off the initial investigation. Reporting 23 it, John Gilbert.</p> <p>24 Q And do you recall discussing this</p>	<p style="text-align: center;">Page 465</p> <p>1 Q Okay? I'll represent that to you.</p> <p>2 So let's first look at the e-mail. Do 3 you recognize the e-mail?</p> <p>4 A I don't recognize the e-mail. I know it 5 came from me, but I don't recall sending it and -- 6 it's six years ago.</p> <p>7 Q Okay. So this is an e-mail that you 8 forwarded to Endo Pain RDs. That's regional 9 directors, correct?</p> <p>10 A Correct.</p> <p>11 Q And you copied Kristin Vitanza and 12 Randall Mastrangelo --</p> <p>13 A Right.</p> <p>14 Q -- on February 25th, 2013.</p> <p>15 A Yes.</p> <p>16 Q And you were forwarding something called 17 a Pharmacy -- I think it's a misspelling. It's 18 supposed to be pharmacy, it says pharmacy --</p> <p>19 A Yeah.</p> <p>20 Q That's probably a typo.</p> <p>21 -- "Pharmacy Report Update?"</p> <p>22 A Correct.</p> <p>23 Q So the e-mail with the original pharmacy 24 report that you received came from someone named</p>

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<p>1 Laurie Sutherland below. Do you see that?</p> <p>2 A Yes.</p> <p>3 Q Who is Laurie Sutherland?</p> <p>4 A I -- I don't remember who Laurie was.</p> <p>5 Her title would have been down here somewhere, but it doesn't look like it copied well.</p> <p>7 Q Well, it says "Director, Enterprise data and field sales reporting."</p> <p>9 A Right.</p> <p>10 Q Does that refresh your recollection who she is?</p> <p>12 A No.</p> <p>13 Q And --</p> <p>14 A Oh, she was a director -- so she -- I think she was in the operations group that provided field sales reports.</p> <p>17 Q Okay. And you --</p> <p>18 A I think.</p> <p>19 Q And you -- would you receive such reports --</p> <p>21 A Yes, from her.</p> <p>22 Q -- from Ms. Sutherland?</p> <p>23 A Yes.</p> <p>24 Q In connection with your job duties?</p>	<p>1 A Correct.</p> <p>2 Q Correct?</p> <p>3 A Yes.</p> <p>4 Q Okay. So what was your purpose to forwarding this pharmacy report?</p> <p>6 A So --</p> <p>7 MR. MORRIS: Objection to form and foundation.</p> <p>9 THE WITNESS: So they had the information so they could see stores that were stocked in their geographies.</p> <p>12 BY MR. LENISKI:</p> <p>13 Q And what were you anticipating that the regional managers would do with this information?</p> <p>15 A Just knowledge for them, where it was stocked and where it was not.</p> <p>17 Q Well, how did you expect them to use this information from a practical standpoint?</p> <p>19 A I don't recall what my expectation was for this.</p> <p>21 Q Were -- was Endo calling on these pharmacies, to your knowledge?</p> <p>23 A The sales organization didn't call on pharmacies, but others -- we had a managed care</p>
<p style="text-align: center;">Page 467</p> <p>1 A Yes.</p> <p>2 Q And would you share those reports with the regional managers or --</p> <p>4 A Yeah, where appropriate, I would, yes.</p> <p>5 Q Okay. And this -- what she's attaching she says is an updated pharmacy report.</p> <p>7 "This is an update to the report that Ian sent last April. The report shows the top 5,000 Opana ER stocking pharmacies." Correct?</p> <p>10 A Yes.</p> <p>11 Q She does say: "Keep in mind this report, just as the last -- the one last year, does not include national retail pharmacies."</p> <p>14 And she lists CVS, Walgreens, Rite-Aid and Walmart, correct?</p> <p>16 A Correct.</p> <p>17 Q Okay. And then above, you are forwarding this, as we said, to your Endo Pain regional directors, and you write: "Please provide this to your teams: It is critical that we are messaging the importance of filling Opana ER scripts with Opana ER with INTAC. We should also be focused on those key chains that dispense C-II."</p>	<p style="text-align: center;">Page 469</p> <p>1 team and trade team that did.</p> <p>2 Q Then what was -- again, I guess I'm confused about why your regional managers -- how they -- how they would have known what to do with this information you were forwarding to them.</p> <p>6 MR. MORRIS: Objection to form and foundation.</p> <p>8 THE WITNESS: The only reason I would have sent this is just so they would know where pharmacies were stocked with the new formulation.</p> <p>11 BY MR. LENISKI:</p> <p>12 Q Do you recall having any other communications with the district managers on this list about what to do with this list beyond what you said in this e-mail?</p> <p>16 A I don't recall any other communication.</p> <p>17 Q Okay. And then if you go to the attachment, as represented on the second page of the exhibit, I included only the Tennessee pharmacies that were on this six-month top 5,000 list.</p> <p>22 A Okay.</p> <p>23 Q And that is true for the first -- one, two, three -- first eight pages. And that's for</p>

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<p>1 the tab that was "Midwest." Okay?</p> <p>2 A Okay.</p> <p>3 Q And then if you look over to the second</p> <p>4 to last page, there was a second tab in this</p> <p>5 spreadsheet that was labeled "Southeast," and it</p> <p>6 also includes Tennessee pharmacies.</p> <p>7 A Okay.</p> <p>8 Q Was it your recollection that Tennessee</p> <p>9 was actually divided between two different</p> <p>10 territories at this time?</p> <p>11 A I do not recall that.</p> <p>12 Q Okay. In any event, under the tab for</p> <p>13 "Southeast," there's additional pharmacies listed</p> <p>14 there for the cities of, for example, Kingsport,</p> <p>15 Johnson City, and Bristol, Tennessee. Do you see</p> <p>16 those?</p> <p>17 A Yes.</p> <p>18 Q And do you know where Kingsport, Johnson</p> <p>19 City and Bristol are located relative to</p> <p>20 Appalachia?</p> <p>21 A I know that Kingsport and Johnson City</p> <p>22 are in the southern -- southeastern portion of</p> <p>23 Tennessee.</p> <p>24 Q I think Bristol, Tennessee -- I don't</p>	<p>1 the exhibits --</p> <p>2 MR. MORRIS: Oh, of the -- yes.</p> <p>3 THE VIDEOGRAPHER: The time is 7:19 p.m.</p> <p>4 We're going off the record.</p> <p>5 (Recess.)</p> <p>6 THE VIDEOGRAPHER: The time is 7:59 p.m.</p> <p>7 We're back on the record.</p> <p>8 CROSS-EXAMINATION</p> <p>9 BY MR. MORRIS:</p> <p>10 Q Mr. Romaine, thank you again for being</p> <p>11 here today. I know it's been a long day. I have</p> <p>12 a few questions myself for you.</p> <p>13 And there's a few questions that I'm</p> <p>14 going to go over your background, not to retrace</p> <p>15 old ground necessarily, but to kind of orient us</p> <p>16 for our series of questions.</p> <p>17 A Okay.</p> <p>18 Q Can you remind us again when you began</p> <p>19 at Endo.</p> <p>20 A June of 2003.</p> <p>21 Q And how long did you remain at the</p> <p>22 company?</p> <p>23 A I left in September of 2013. So 10</p> <p>24 years.</p>
<p style="text-align: center;">Page 471</p> <p>1 think you can get much further east in Tennessee.</p> <p>2 It's right on the border there between Virginia</p> <p>3 and Tennessee and North Carolina.</p> <p>4 A Yeah, I think they call it the</p> <p>5 Tri-Cities area.</p> <p>6 Q That's right.</p> <p>7 A Yeah, that's right.</p> <p>8 Q Okay. So in any event, at this time,</p> <p>9 because these cities were located in the</p> <p>10 southwest -- I'm sorry -- "Southeast" tab, that</p> <p>11 would indicate, am I correct, that that -- those</p> <p>12 cities at this time frame were in the southeast</p> <p>13 region as far as Endo was concerned for</p> <p>14 territories?</p> <p>15 A Yeah, I don't know that for a fact, but</p> <p>16 that makes sense.</p> <p>17 MR. LENISKI: Okay. I have no further</p> <p>18 questions at this time.</p> <p>19 MR. MORRIS: Thank you.</p> <p>20 So let's take a break. I will have</p> <p>21 questions. I'm going to organize, and we'll come</p> <p>22 back in 15 minutes or so.</p> <p>23 MS. SCULLION: Let me suggest when we</p> <p>24 start, then we will read the numbers in of</p>	<p style="text-align: center;">Page 473</p> <p>1 Q Okay. So what title did you have when</p> <p>2 you left the company?</p> <p>3 A Vice president of sales.</p> <p>4 Q So you left in 2013, so how many years</p> <p>5 ago approximately is that?</p> <p>6 A Yeah, six years -- six years -- six-ish</p> <p>7 years ago.</p> <p>8 Q So it's been quite a while since you've</p> <p>9 been at the company, correct?</p> <p>10 A Yes.</p> <p>11 Q Have you been required to think much</p> <p>12 about Endo Opana sales in those intervening six</p> <p>13 years?</p> <p>14 A No.</p> <p>15 MS. SCULLION: Objection to form.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q You said that when you left the company,</p> <p>18 you held the title of VP sales. How long did you</p> <p>19 hold that title?</p> <p>20 A From 2007 until -- June of 2007 until I</p> <p>21 left in September of 2013.</p> <p>22 Q And I know you described earlier some of</p> <p>23 your job duties, but can you describe in general</p> <p>24 what your responsibilities were as VP of sales.</p>

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<p style="text-align: right;">Page 474</p> <p>1 A Yeah, my role and responsibility was 2 to -- to lead the sales organization. So I was 3 responsible to make sure that they were well 4 trained, they would continually be tested to 5 ensure that they were well trained, and that they 6 could go out and deliver a clinical message to 7 physicians.</p> <p>8 Q Are you proud of the time that you 9 worked at Endo?</p> <p>10 A Absolutely.</p> <p>11 Q And why is that?</p> <p>12 A I worked with great people. I felt like 13 we achieved very good results. I thought, you 14 know, everybody I worked with, both in the home 15 office as well as in the field, were ethical, high 16 integrity, a passion to -- to do what's right for 17 patients and for the physician offices that they 18 called on.</p> <p>19 So there was a lot of energy around the 20 company and the work that we did every day and 21 what we achieved.</p> <p>22 Q Now, eventually you were downsized from 23 the company, right?</p> <p>24 A That's correct.</p>	<p style="text-align: right;">Page 476</p> <p>1 were trained to -- or what -- I'm sorry. 2 Can you describe what Endo sales reps 3 were trained to cover with healthcare providers 4 when they went out on sales calls?</p> <p>5 A Well, they're -- they were required to 6 cover a full balance. So they were required to 7 cover the package insert, they were required to 8 talk about the indication, the dosing, any adverse 9 events, the entire portfolio of the product.</p> <p>10 Q Did Endo monitor how well sales 11 representatives performed in adhering to the 12 required sales procedures?</p> <p>13 A Yes. Their district managers routinely 14 rode in the field with them and observed them and 15 documented that -- that information.</p> <p>16 Q And how often did that occur?</p> <p>17 A The district managers were in the field 18 approximately four days out of the week. So they 19 were with that -- the same rep about every five 20 weeks, they would be with them for two days.</p> <p>21 Q And did the sales representatives 22 receive feedback?</p> <p>23 A Yes. Both verbal coaching as well as 24 written coaching.</p>
<p style="text-align: right;">Page 475</p> <p>1 Q Did anybody at the company tell you why 2 you were being downsized?</p> <p>3 A No, not at the time.</p> <p>4 Q Now, you mentioned that the Endo sales 5 representatives received training on how to do 6 their job. How did the sales representatives 7 receive that training from Endo?</p> <p>8 A Well, when they were hired, they went 9 through a home office -- their home office 10 training program where they actually read through 11 binders and literature and modules, and then they 12 came into the home office for training. And then 13 every year we would have three to four training 14 meetings where we would actually reeducate the 15 sales force on different aspects of the business 16 or new materials.</p> <p>17 Q Was there a way for Endo to gauge how 18 well the sales representatives were understanding 19 the training?</p> <p>20 A Well, they were always tested, and they 21 also had to be certified. So verbalization of the 22 message had to be certified, and they had to 23 deliver it to their manager.</p> <p>24 Q Can you describe how Endo sales reps</p>	<p style="text-align: right;">Page 477</p> <p>1 Q You touched on this a little bit before, 2 but was there any limitation on the kinds of 3 healthcare professionals that sales 4 representatives were allowed to call on for sales 5 visits?</p> <p>6 A Well, they had to be experienced 7 physicians prescribing in that therapeutic class. 8 There were excludes, depending on the -- on the 9 specialty, that if they didn't really prescribe 10 that therapeutic class of drugs, there would be an 11 exclude on their call plan. But they had to be 12 experienced prescribers of the class that they 13 were calling on.</p> <p>14 Q And what constituted being an 15 experienced prescriber?</p> <p>16 A Someone that had a practice that, you 17 know, treated the types of patients that we had a 18 product that would fit. Someone that had had a 19 lot of experience as far as patient population 20 that was coming into the -- their practice for 21 treatment.</p> <p>22 Q And do you have an understanding about 23 why there was that requirement placed on -- or 24 limitation on healthcare providers who could be</p>

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<p>1 called upon by sales representatives?</p> <p>2 A Well --</p> <p>3 MS. SCULLION: Objection. Foundation.</p> <p>4 THE WITNESS: -- to ensure that we</p> <p>5 were -- we were meeting the needs of the clinical</p> <p>6 practitioners out there and that -- and we were</p> <p>7 following a set of guidelines as far as, you know,</p> <p>8 where products should be written and where we</p> <p>9 shouldn't be going.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q Were there -- you mentioned that there</p> <p>12 were categories of healthcare providers that</p> <p>13 were -- fell into the grouping that could be</p> <p>14 called upon. Were there particular practice areas</p> <p>15 that were excluded?</p> <p>16 A Yeah --</p> <p>17 MS. SCULLION: Objection to form.</p> <p>18 THE WITNESS: -- excludes would be</p> <p>19 dentists -- depending on -- again, on the</p> <p>20 therapeutic class we're talking about, but</p> <p>21 specifically with Opana ER, dentists would be</p> <p>22 excluded, psychiatrists as a practice would be</p> <p>23 excluded, things like that.</p> <p>24 BY MR. MORRIS:</p>	<p>1 A Here's 15. 16. 14. Okay. I'm sorry.</p> <p>2 Q That's okay. A lot of documents over</p> <p>3 there.</p> <p>4 Can you take a look at what had been --</p> <p>5 what's been marked as Exhibit 14. You talked</p> <p>6 about this document earlier today. Can you just</p> <p>7 describe what that document is again.</p> <p>8 A It's the master visual aid.</p> <p>9 Q Okay. And if you go into the document</p> <p>10 to the page that at the top has E1023.37.</p> <p>11 And before I ask you some specific</p> <p>12 questions about this portion of the document, can</p> <p>13 you describe again what master visual aid is.</p> <p>14 A It's the -- the detail aid that the</p> <p>15 representatives would use in front of a physician.</p> <p>16 Q And if you just take a quick peek at the</p> <p>17 first page of this exhibit, do you see what date</p> <p>18 is on the e-mail that's on there?</p> <p>19 A September 18th, 2006.</p> <p>20 Q And when did -- approximately when did</p> <p>21 Opana launch, come onto the market?</p> <p>22 A June of 2006, I think was the time</p> <p>23 frame.</p> <p>24 Q Okay. Now, I'm drawing your attention</p>
<p style="text-align: center;">Page 479</p> <p>1 Q And did you have an understanding about</p> <p>2 why those types of practices were excluded?</p> <p>3 MS. SCULLION: Objection. Foundation.</p> <p>4 THE WITNESS: Well, they weren't</p> <p>5 experienced in the class. They didn't typically</p> <p>6 see the type of patient with moderate to severe</p> <p>7 pain routinely.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q And the descriptions you've been giving</p> <p>10 about the kind of healthcare providers that could</p> <p>11 be called upon and -- in the requirement of the</p> <p>12 call plan, was that for Opana specifically?</p> <p>13 A Yes.</p> <p>14 Q If you could look at Exhibit 14, please.</p> <p>15 A I don't know if --</p> <p>16 Q And I know it might take you a minute to</p> <p>17 find that, but that could also be called -- called</p> <p>18 up.</p> <p>19 A I -- I don't think I'm going to find it</p> <p>20 here.</p> <p>21 Q It's the one that looks like that</p> <p>22 (indicating).</p> <p>23 A What was the number again?</p> <p>24 Q 14.</p>	<p style="text-align: center;">Page 481</p> <p>1 specifically to page 1023.37. Do you know what</p> <p>2 this portion of the exhibit is?</p> <p>3 A Yeah, this is a -- what they call a</p> <p>4 navigator. It's a sales training tool.</p> <p>5 Q And is this something that would have</p> <p>6 been provided to the sales force?</p> <p>7 A With each new master visual aid, yes.</p> <p>8 Q Okay. And is that something that the</p> <p>9 sales representatives were trained on?</p> <p>10 A Yes.</p> <p>11 Q If you turn a few pages in to the page</p> <p>12 that at the top has 1023.40.</p> <p>13 A Okay. Okay.</p> <p>14 Q Can you read -- there's a box on the</p> <p>15 left-hand side that begins "Prescribers --"</p> <p>16 Prescribers of Schedule II opioids." Do you see</p> <p>17 that?</p> <p>18 A Yes.</p> <p>19 Q Can you read that?</p> <p>20 A "Prescribers of Schedule II opioids</p> <p>21 carry the responsibility of understanding the</p> <p>22 associated risks in order to make informed</p> <p>23 treatment decisions."</p> <p>24 Q And then there's a box underneath that,</p>

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<p style="text-align: center;">Page 482</p> <p>1 at the bottom of the page, that begins "Opana is a 2 Schedule II opioid" -- 3 A Yes. 4 Q -- "that carries the risk." Do you see 5 that? 6 A Yes. 7 Q And can you just read the first sentence 8 of that, please. 9 A "Opana is a Schedule II opioid that 10 carries the risk of other schedule -- carries the 11 risks of other Schedule II opioids." 12 Q And what was the purpose of having these 13 types of boxes pulled out for the training 14 material that was provided to the sales force? 15 A To ensure that they knew exactly what 16 were important pieces that they needed to 17 reinforce with physicians when they were making 18 the sales presentations. 19 Q Okay. If you could turn to the next 20 page that's .41. 21 A Okay. 22 Q And on this page there's a box that 23 includes the -- starts with the phrase "Balancing 24 claims." Can you read that?</p>	<p style="text-align: center;">Page 484</p> <p>1 inappropriately or it's taken illegally. 2 Q And during your tenure at Endo, did the 3 company have policies requiring its employees to 4 report suspected diversion -- 5 A Yes. 6 Q -- of opioid medications? 7 A Yes. 8 Q And how were the sales representatives 9 advised about those policies? 10 A Well, they were trained on -- on what to 11 look for in diversion, and then they had a number 12 that they could call to report diversion. And 13 they also had their district managers available to 14 them as well that they could -- they were supposed 15 to report to as well. 16 MR. MORRIS: I can't figure out what 17 number that is. Oh, it's because there isn't a 18 number yet. 19 Anybody know what number we're on? 20 MS. SCULLION: I do not know. Joe? 21 MR. LENISKI: 58, I think. 22 MR. MORRIS: Okay, we'll go with 58. 23 (Romaine Exhibit No. 58 was marked 24 for identification.)</p>
<p style="text-align: center;">Page 483</p> <p>1 A Yeah. "To ensure HCPs are fully 2 informed about the appropriate use of Opana, it's 3 important to balance your presentation by 4 reviewing the abuse liability, contraindications 5 and precautions when making claims such as those 6 on this page." 7 Q And as the VP of sales, what did you 8 understand that to mean? 9 MS. SCULLION: Objection. Foundation. 10 THE WITNESS: To provide full balance 11 when they're making sales presentations. 12 BY MR. MORRIS: 13 Q And that's something that the -- all the 14 sales force was trained on? 15 A Yes. 16 MS. SCULLION: Objection. Leading. 17 BY MR. MORRIS: 18 Q You talked a little bit about this 19 before, but I want to go back to it. You've heard 20 the term "diversion"? 21 A Yes. 22 Q And what's your understanding of what 23 "diversion" is? 24 A When a product is prescribed</p>	<p style="text-align: center;">Page 485</p> <p>1 BY MR. MORRIS: 2 Q I'm handing you Exhibit 58. 3 MS. SCULLION: Thank you. 4 BY MR. MORRIS: 5 Q And that bears the production number at 6 the very bottom END00747664. 7 I'll ask you to take a look at that. 8 It's an e-mail from you dated September -- I'm 9 sorry -- July 30th, 2012. 10 Do you recognize what's been marked as 11 Exhibit 58? 12 A Yes. 13 Q And what is Exhibit 58? 14 A It's an e-mail that I sent out to the 15 region business directors. 16 Q And what was the purpose of your sending 17 out this e-mail? 18 A Reinforcing tools and resources that the 19 reps had available to them to report diversion. 20 Q Okay. And so can you read what you 21 wrote in the body of the e-mail. 22 A Yes. 23 MS. SCULLION: Objection. Form. 24 THE WITNESS: "Please discuss the</p>

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<p>1 suspected diversion form with your teams. I 2 realize that they have this information, but it's 3 always good to revisit. Please advise me of any 4 issues in your RBU."</p> <p>5 BY MR. MORRIS:</p> <p>6 Q And if you could take a look at the 7 second page of Exhibit 58, can you describe what 8 that is?</p> <p>9 A Yeah, that is the diversion form that we 10 used.</p> <p>11 Q And is that something that was provided 12 to the sales force?</p> <p>13 A Yes.</p> <p>14 Q And if you look at the middle of the 15 page, there's some enumerated items there. What 16 are those?</p> <p>17 A Those would be areas to -- of -- to look 18 for suspected diversion.</p> <p>19 Q And can you read the first one, please.</p> <p>20 A "A large portion of prescriptions being 21 paid for in cash."</p> <p>22 Q And is that a potential indicator of 23 diversion?</p> <p>24 A Yes.</p>	<p>1 different document. Mine does not have any Bates 2 numbers on it.</p> <p>3 MR. MORRIS: I think it may be because 4 of the copy.</p> <p>5 MS. SCULLION: Oh, okay.</p> <p>6 MR. MORRIS: It should be the same -- 7 let's just make sure. It's the e-mail entitled 8 "RBD Removals."</p> <p>9 MS. SCULLION: April 5th, 2013?</p> <p>10 MR. MORRIS: April 5th, 2013.</p> <p>11 MS. SCULLION: Yeah. Thank you.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q First, I'll ask whether you recognize 14 the cover e-mail on this exhibit.</p> <p>15 A I do recognize the e-mail. Not 16 specifically, but I do recognize this e-mail.</p> <p>17 Q Okay. And you're a cc on that e-mail?</p> <p>18 A Correct.</p> <p>19 Q The e-mail references the "RBD 20 prescriber removals." Do you see that?</p> <p>21 A Yes.</p> <p>22 Q Do you have an understanding about what 23 the "RBD removals" refers to?</p> <p>24 A It's the -- a removal list of physicians</p>
<p style="text-align: center;">Page 487</p> <p>1 Q And can you read the second one, please.</p> <p>2 A "Drugs and doses being prescribed that 3 are not individualized."</p> <p>4 Q Is that also a potential indicator of 5 diversion?</p> <p>6 A Yes.</p> <p>7 Q Okay. And you -- there are several 8 others here that are listed, and these are all 9 indicators that the sales force was trained to 10 look out for for potential diversion?</p> <p>11 A Correct.</p> <p>12 (Romaine Exhibit No. 59 was marked 13 for identification.)</p> <p>14 BY MR. MORRIS:</p> <p>15 Q Let me show you what has been marked as 16 Exhibit 59.</p> <p>17 MS. SCULLION: Thank you.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q Mr. Romaine, do you -- and, I'm sorry, I 20 should identify it with the production numbers. 21 Hold on just one second.</p> <p>22 It has production number at the bottom 23 ENDO_OPIOID_MDL-00770609.</p> <p>24 MS. SCULLION: Sean, you may have a</p>	<p style="text-align: center;">Page 489</p> <p>1 that were removed from the representatives' call 2 plan.</p> <p>3 Q And is -- the exhibit notes that there 4 is an attachment, "The RBD Removals." Do you see 5 that?</p> <p>6 A Yes.</p> <p>7 Q For P -- 2P13. Do you see that?</p> <p>8 A Yes.</p> <p>9 Q And is that information that you would 10 receive in your position as the VP of sales?</p> <p>11 A Not typically, but I would -- typically 12 this -- I would get copied on it, to your point.</p> <p>13 Q Understood. I'll represent to you that 14 there is an attachment to this document that had, 15 it looks like, an Excel spreadsheet in native 16 form, and the particular exhibit that's in front 17 of you has an excerpt from that.</p> <p>18 A Yes.</p> <p>19 Q Can you turn to the first page behind 20 the e-mail.</p> <p>21 A Okay.</p> <p>22 MS. SCULLION: I'm just going to note 23 our objection to -- to using an incomplete 24 exhibit.</p>

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<p>1 BY MR. MORRIS:</p> <p>2 Q Can you read, please, the information 3 under the top heading there, "Criterion 4 Guidelines."</p> <p>5 A Yes. "Criterion Guidelines. This 6 process provides you with a mechanism to 7 proactively address prescriber issues that have a 8 significant impact at the territory level while 9 maintaining accountability within your region."</p> <p>10 Q Okay. And there's a -- underneath that 11 there's some examples. Can you read the first 12 bullet point.</p> <p>13 A "Inappropriate for reps to call on: 14 Safety issues, valid licenses but suspension -- 15 suspicious practice, apparent pill mill that 16 cannot be located, et cetera."</p> <p>17 Q Okay. And there's an asterisk after the 18 words "call on," and then there's an asterisk 19 right below that. Can you read that, please.</p> <p>20 A Yeah. "Suspicion of diversion should 21 continue to be submitted to corporate compliance 22 for investigation and removal through the -- 23 through that process."</p> <p>24 Q And who is corporate compliance?</p>	<p>1 A Yes. 2 Q What does the first line say under 3 "Current Status Category"? 4 A "Remove from goals compliance." 5 Q And then under "Justification," what 6 does it say there? 7 A "Inappropriate office, diversion 8 suspicion." 9 Q Is this an example of a healthcare 10 provider that was noted as potentially being 11 someone who should be removed for diversion 12 suspicion? 13 A Yes. 14 MS. SCULLION: Objection. Foundation 15 and form. 16 THE WITNESS: Yes. 17 BY MR. MORRIS: 18 Q Are there other compliance issues that 19 you see noted on this page? 20 A Yes. 21 Q And if you go down like two -- two lines 22 below that, there's a compliance issue. Do you 23 see that? 24 A Yes.</p>
<p>1 A It's our -- that's our compliance 2 department within sales -- within the Endo 3 organization.</p> <p>4 Q If you could turn to -- I'm going to use 5 the page numbers that are -- the page of 59 at the 6 bottom there, and once you get into the actual 7 Excel spreadsheet.</p> <p>8 A Okay.</p> <p>9 Q Do you see that?</p> <p>10 A Yes.</p> <p>11 Q If you could turn to page 26.</p> <p>12 MS. SCULLION: Sean, can I just have a 13 continuing objection to using an incomplete 14 document?</p> <p>15 MR. MORRIS: Yes.</p> <p>16 MS. SCULLION: Thanks.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q Now, Mr. Romaine, do you see the -- 19 there are several columns on this page, and at the 20 top, the second column over says "Current Status 21 Category." Do you see that?</p> <p>22 A Yes.</p> <p>23 Q And after that it says "Justification 24 Required." Do you see that?</p>	<p>1 Q And then a few lines further down, there 2 are two more compliance issues in a row. 3 A Yes. 4 Q And those are noted as "Inappropriate 5 office to call on"? 6 A Correct. 7 Q And if you go down a few more lines, 8 there are three more "inappropriate offices to 9 call on." Do you see that? 10 A Yes. 11 Q And then the one right below that says: 12 "Inappropriate prescribing of opioids, diversion 13 suspicion"? 14 A Yes. 15 Q Are those all examples of healthcare 16 providers being noted on the RBD list as those 17 that are potentially subject to removal -- 18 MS. SCULLION: Object -- 19 BY MR. MORRIS: 20 Q -- for compliance issues? 21 MS. SCULLION: Objection. Foundation 22 and form. 23 THE WITNESS: Yes. 24 BY MR. MORRIS:</p>

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<p style="text-align: right;">Page 494</p> <p>1 Q Now, in your role as the VP of sales, 2 would you have done anything with the RBD removal 3 list?</p> <p>4 MS. SCULLION: Objection. Form, 5 hypothetical.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q Once somebody appears on the RBD 9 prescriber removal list, what was the process 10 following that?</p> <p>11 A That would go --</p> <p>12 MS. SCULLION: Objection. Foundation.</p> <p>13 THE WITNESS: That would go directly to 14 compliance for an investigation, and then 15 depending on the investigation, the outcome, there 16 would be a result from that.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q And were you part of any of the 19 investigations with respect to potential 20 compliance issues with providers on the call list?</p> <p>21 A I was not.</p> <p>22 Q Earlier today counsel asked you some 23 questions about Dr. Herndon. Do you recall those 24 questions?</p>	<p style="text-align: right;">Page 496</p> <p>1 A It might take me a while. 2 Can I look on here? Okay.</p> <p>3 Q Do you recall the voicemail message that 4 was played earlier today?</p> <p>5 A Yes.</p> <p>6 Q And I believe on the second page, there 7 is a transcript.</p> <p>8 MS. SCULLION: I think we may have 9 marked that as a separate exhibit.</p> <p>10 MR. MORRIS: Oh, that was 8?</p> <p>11 MS. SCULLION: Yeah.</p> <p>12 MS. TYJER: The transcript is 7. The 13 e-mail is 8.</p> <p>14 MR. MORRIS: Right, I -- I'm sorry, I 15 asked for 7.</p> <p>16 MS. SCULLION: I believe we marked it as 17 a demonstrative -- as a demonstrative.</p> <p>18 MR. MORRIS: Right. I have it marked as 19 Exhibit 7, the actual transcript. Is that not 20 correct?</p> <p>21 (A discussion was held off the record.)</p> <p>22 MR. MORRIS: Oh, I'm sorry. Do you need 23 a different number for that? E -- E1203.</p> <p>24 BY MR. MORRIS:</p>
<p style="text-align: right;">Page 495</p> <p>1 A Yes.</p> <p>2 Q As you sit here today, do you have any 3 information about or recollection about 4 Dr. Herndon?</p> <p>5 A I don't.</p> <p>6 Q Do you know if you ever had any 7 information about Dr. Herndon?</p> <p>8 A I don't recall.</p> <p>9 Q And would that be something in your role 10 as senior VP, would that -- would the -- any 11 investigation of him as potential diversion fall 12 within your roles and responsibilities as a senior 13 VP of sales?</p> <p>14 A No, that would be --</p> <p>15 MS. SCULLION: Objection. Foundation 16 and form. Sorry.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q Earlier today counsel also asked you 20 some questions about -- I'm going to pull it up as 21 Exhibit 7.</p> <p>22 A Oh, gosh. Okay.</p> <p>23 Q And maybe we can do it just by pulling 24 it --</p>	<p style="text-align: right;">Page 497</p> <p>1 Q Okay. And there were questions about 2 one of -- well, first of all, to whom did this 3 voicemail go?</p> <p>4 A The region business directors.</p> <p>5 Q And how many regional business directors 6 were there?</p> <p>7 A Six.</p> <p>8 Q And what was the role of the regional 9 business directors?</p> <p>10 A They managed a region of the country -- 11 sales region of the country.</p> <p>12 Q And were those the people that reported 13 directly to you?</p> <p>14 A Yes.</p> <p>15 Q And you knew them pretty well?</p> <p>16 A Yes.</p> <p>17 MS. SCULLION: Objection. Leading.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q And do you think that they knew you 21 pretty well?</p> <p>22 MS. SCULLION: Objection. Leading.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. MORRIS:</p>

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<p style="text-align: center;">Page 498</p> <p>1 Q If you go to -- a third of the way up 2 from the bottom, there's a sentence that says: 3 "And if we have reps out there" -- do you see 4 that?</p> <p>5 A Yes.</p> <p>6 Q Can you read that sentence again, 7 please.</p> <p>8 A Just a second -- yes.</p> <p>9 "And if we have reps out there, and -- 10 there, I don't care who they are, that can't sell 11 Opana ER clinically, they can't be with Endo. 12 Okay?"</p> <p>13 Q Can you explain what you meant by that 14 sentence?</p> <p>15 MS. SCULLION: Objection. Foundation.</p> <p>16 THE WITNESS: I think I talked about it 17 earlier today when this was addressed, but my 18 expectation is to have a highly -- all the sales 19 force should be highly trained, highly effective, 20 very professional, and they should have a very 21 good knowledge and be able to communicate 22 effectively full disclosure information to 23 physicians. And if they can't do that, they 24 shouldn't be in the role and responsibility they</p>	<p style="text-align: center;">Page 500</p> <p>1 BY MR. MORRIS:</p> <p>2 Q How many people would have received the 3 documents like that?</p> <p>4 MS. SCULLION: Objection. Form, 5 foundation.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q Let me ask it this way: Market 8 research, do you know how many people within the 9 company would receive that kind of information?</p> <p>10 A 30 to 40, approximately.</p> <p>11 Q And as the VP of sales, were you 12 expected to do anything in response to receiving 13 that market research if you received it?</p> <p>14 A No.</p> <p>15 MS. SCULLION: Objection to form.</p> <p>16 MR. MORRIS: Why don't we just take a 17 quick pause here. We don't even have to leave. I 18 just want to confer and see if there's any further 19 questions.</p> <p>20 THE WITNESS: Okay.</p> <p>21 THE VIDEOGRAPHER: The time is 8:28 p.m. 22 We're going off the record.</p> <p>23 (Pause.)</p> <p>24 THE VIDEOGRAPHER: The time is 8:29 p.m.</p>
<p style="text-align: center;">Page 499</p> <p>1 have.</p> <p>2 BY MR. MORRIS:</p> <p>3 Q And you used the phrase "If they can't 4 sell Opana ER clinically." What did that refer 5 to?</p> <p>6 A Being able to walk through the package 7 insert, being able to walk through the pack -- the 8 master visual aid with the physician, and cover 9 all aspects of the product, including the box 10 warning.</p> <p>11 Q I'm going to show you now Exhibits 40 12 and 41. And so you don't have to look through 13 your pile, I'm just going to give you my copies 14 that I marked.</p> <p>15 Do you recall those exhibits?</p> <p>16 A From today, yes.</p> <p>17 Q From today. And had you seen those 18 documents prior to today?</p> <p>19 A I don't recall them.</p> <p>20 Q And what are those two documents? What 21 kind of documents are they?</p> <p>22 MS. SCULLION: Objection. Form.</p> <p>23 THE WITNESS: They're summaries of 24 market research.</p>	<p style="text-align: center;">Page 501</p> <p>1 We're back on the record.</p> <p>2 MR. MORRIS: Mr. Romaine, thank you very 3 much. I don't have any further questions at this 4 time.</p> <p>5 THE WITNESS: Thank you.</p> <p>6 THE VIDEOGRAPHER: The time is 8:29 p.m. 7 We're going off the record.</p> <p>8 (Recess.)</p> <p>9 THE VIDEOGRAPHER: The time is 8:51 p.m. 10 We're back on the record.</p> <p>11 REDIRECT EXAMINATION</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Welcome back, Mr. Romaine.</p> <p>14 A Thank you.</p> <p>15 Q You realize you're still under oath?</p> <p>16 A Yes.</p> <p>17 Q Thank you.</p> <p>18 Mr. Morris had asked you about whether 19 sales reps were required to review the -- in the 20 PI, the risks, adverse events, contraindications, 21 et cetera, for a product, correct?</p> <p>22 A Yes.</p> <p>23 Q And now, you testified earlier that reps 24 could have as little as two to five minutes with a</p>

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<p style="text-align: center;">Page 502</p> <p>1 physician, correct?</p> <p>2 A I -- I think -- yeah, I think I said</p> <p>3 five to six, but somewhere in that range, yes.</p> <p>4 Q Okay. And they might be reviewing</p> <p>5 multiple products, right?</p> <p>6 A Yes.</p> <p>7 Q And is it really realistic for them</p> <p>8 to -- they're not going to read verbatim, for</p> <p>9 example, the black box warning during that time</p> <p>10 with the physician, right?</p> <p>11 A They -- they would, but they have to --</p> <p>12 they can, and they also have to provide them with</p> <p>13 the -- the black box. They have to provide them</p> <p>14 with a package insert.</p> <p>15 Q But they're not -- they're not sitting</p> <p>16 there reading verbatim the black box warning to</p> <p>17 the physician every time they make a call.</p> <p>18 A No.</p> <p>19 Q Okay. And they're not sitting there</p> <p>20 reading verbatim the contraindications every time</p> <p>21 they're making a call on a physician, right?</p> <p>22 A No.</p> <p>23 Q And they're not sitting there reading</p> <p>24 verbatim all of the risks indicated in -- in the</p>	<p style="text-align: center;">Page 504</p> <p>1 on the sides of the master visual aids?</p> <p>2 A Yes.</p> <p>3 Q And you were asked: What was the</p> <p>4 purpose of having these types of boxes pulled out</p> <p>5 for the training material that was provided to the</p> <p>6 sales force?</p> <p>7 And your answer was: To ensure that</p> <p>8 they knew exactly what were important pieces if</p> <p>9 they need to reinforce to physicians when they're</p> <p>10 making the sales presentations. Correct?</p> <p>11 A Correct.</p> <p>12 Q And so that would include, for example,</p> <p>13 on page E1023.19 --</p> <p>14 A Okay.</p> <p>15 Q -- do you see the callout box at the</p> <p>16 bottom of the page there that begins "Stress our</p> <p>17 product promise"?</p> <p>18 A Yes.</p> <p>19 Q It says: "Stress our product promise,</p> <p>20 Opana ER helps patients stay ahead of pain."</p> <p>21 Can you read the next sentence in that</p> <p>22 box?</p> <p>23 A "If HCPs take away one thing from your</p> <p>24 sales call, it should be that Opana ER provides</p>
<p style="text-align: center;">Page 503</p> <p>1 PI, correct?</p> <p>2 A Correct.</p> <p>3 Q All right. In fact, they're spending</p> <p>4 most of their time discussing the benefits of the</p> <p>5 product, correct?</p> <p>6 A Features and the benefits.</p> <p>7 Q Okay. And that includes spending time,</p> <p>8 for example, pointing out the studies that are in,</p> <p>9 for example, the master visual aid?</p> <p>10 A Yeah, anything that's approved.</p> <p>11 MR. MORRIS: Objection to form.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q I'm sorry?</p> <p>14 A Anything that's approved, yes.</p> <p>15 Q Correct. Okay.</p> <p>16 And then you were asked about the master</p> <p>17 visual aid, and that was Exhibit 14.</p> <p>18 A Okay. I have it right here.</p> <p>19 Q And I believe Mr. Morris took you back</p> <p>20 to the navigator portion, which begins at</p> <p>21 E1023.18. Can you turn to that page?</p> <p>22 A Yes. Okay. I'm sorry.</p> <p>23 Q Okay. And do you recall Mr. Morris was</p> <p>24 asking you about in this section the callout boxes</p>	<p style="text-align: center;">Page 505</p> <p>1 durable efficacy and dosing advantages."</p> <p>2 Q And again, that was called out in a</p> <p>3 callout box in this navigator to ensure reps knew</p> <p>4 exactly -- that was an important piece they needed</p> <p>5 to reinforce with physicians when they were making</p> <p>6 sales presentations about Opana ER, correct?</p> <p>7 A Yes.</p> <p>8 Q All right. And in the top right-hand</p> <p>9 corner of the same page, you see the callout box</p> <p>10 that says: "New' is one of the most powerful</p> <p>11 words in promotion."</p> <p>12 A Yes.</p> <p>13 Q Do you see that?</p> <p>14 Again, that then would have been an</p> <p>15 important piece for sales reps to reinforce with</p> <p>16 physicians that Opana ER was new, correct?</p> <p>17 A Yes.</p> <p>18 Q If you will turn to E1023.27.</p> <p>19 A Okay.</p> <p>20 Q The top of this page, do you see where</p> <p>21 it says under the heading "Pages 8-9"?</p> <p>22 A Yes.</p> <p>23 Q "Dialogue"?</p> <p>24 A Yes.</p>

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<p style="text-align: center;">Page 506</p> <p>1 Q And the dialogue there says: "Tailoring 2 the message to your customers. Stress steady 3 delivery for steady sales." Do you see that? 4 A Yes. 5 Q And that also was an indication to the 6 sales force of an important piece that they need 7 to reinforce with physicians when they're making 8 the sales presentations, correct? 9 MR. MORRIS: Objection to form. 10 THE WITNESS: Yes. 11 BY MS. SCULLION: 12 Q Okay. Can you pull back Exhibit 59, 13 which Mr. Morris reviewed with you. 14 A Do you know which -- what that was 15 actually? 16 Q Yeah, it's the removal list. 17 A Okay. 18 Q Thank you. 19 A Yes. 20 Q Do you have Exhibit 59 in front of you? 21 And Mr. Morris had you turn to some of 22 the pages attached at the back where it was noted 23 in various places -- let's go to page 26 of 59. I 24 think that's what you were on.</p>	<p style="text-align: center;">Page 508</p> <p>1 A It came from a different department. 2 Q All right. And as we saw when we looked 3 at the removal list -- sorry -- in Exhibit 44, for 4 Dr. Herndon, do you recall there, there was no 5 notation for Dr. Herndon of removal for compliance 6 for in- -- for inappropriate office diversion 7 suspicion. The removal notation there was "no 8 access," right? 9 A Correct. 10 Q So if -- if the terminology -- sorry -- 11 if the notation for removing a physician for 12 suspected diversion were "Compliance inappropriate 13 office diversion suspicion," we would know that 14 was not why Dr. Herndon was being removed from the 15 list. 16 A Yeah, as I -- 17 MR. MORRIS: Objection to form. 18 THE WITNESS: As I mentioned before, I 19 don't have any real knowledge of the Dr. Herndon 20 situation. 21 BY MS. SCULLION: 22 Q So you really can't speak to what 23 Exhibit 59 really does indicate about why 24 physicians were or were not being removed from</p>
<p style="text-align: center;">Page 507</p> <p>1 A Okay. 2 Q It was noticed -- I'm sorry. It's 3 noted: "Remove from goals compliance 4 inappropriate office diversion suspicion." 5 A Yes. 6 Q Do you see that? 7 A Yes. 8 Q And so that was an indication of if 9 there was a removal for suspected diversion, 10 that's how it would be noted on the list, right? 11 A I -- I don't know how this was put 12 together. I don't know if they used other 13 terminologies or not. 14 Q Well, when Mr. Morris was asking you 15 questions, you were answering about what the 16 notation in this list meant, right? 17 A I read -- I read those. 18 Q But did you know what they actually 19 meant? 20 A I -- I -- I don't recall. 21 Q You don't -- you don't really know how 22 this document was put together, correct? 23 A No. 24 Q Okay.</p>	<p style="text-align: center;">Page 509</p> <p>1 this list. 2 A Well, I know it was the -- the process 3 that was used in order to have compliance, do an 4 investigation if they showed up on this list. 5 Q Okay. But in terms of how to read this 6 list and what it means, you really can't speak to 7 it. 8 MR. MORRIS: Objection to form. 9 THE WITNESS: That's not my -- that's 10 not my area of expertise. 11 BY MS. SCULLION: 12 Q Okay. And I think you testified in 13 response to Mr. Morris's questions that you were 14 not responsible for investigating suspected 15 diversion, correct? 16 A Correct. 17 Q And diversion consists of inappropriate 18 use of the medication, correct? 19 A Correct. 20 Q But you did testify earlier, and this I 21 think at page 356 of the rough: "I think we all 22 take responsibility for ensuring that the product 23 is used appropriately, and that was my focus." 24 That's what you testified to, correct --</p>

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<p>1 A Correct.</p> <p>2 Q -- under oath here today?</p> <p>3 A Yes.</p> <p>4 Q "That we all take responsibility for</p> <p>5 ensuring the product is used appropriately."</p> <p>6 A Right.</p> <p>7 MR. MORRIS: Objection to form.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q And that included you.</p> <p>10 A Yes.</p> <p>11 MR. MORRIS: Objection to form, legal</p> <p>12 conclusion.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q And then with respect to addressing</p> <p>15 diversion, you pointed to -- sorry, you were asked</p> <p>16 about the diversion suspicion request -- diversion</p> <p>17 suspicion form. Correct?</p> <p>18 A Well --</p> <p>19 Q Let me make this easier.</p> <p>20 MS. SCULLION: Do we have the exhibit?</p> <p>21 THE WITNESS: This one, yes.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q What is the exhibit number, please?</p> <p>24 A 58.</p>	<p>1 Q And that would mean that reps would have</p> <p>2 to want to report suspected diversion if they saw</p> <p>3 it, correct?</p> <p>4 A Yes.</p> <p>5 MR. MORRIS: Objection to form.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q And you would agree that there could be</p> <p>8 reasons that a rep might not want to report</p> <p>9 suspected diversion, correct?</p> <p>10 MR. MORRIS: Objection to form.</p> <p>11 THE WITNESS: I -- I don't know why they</p> <p>12 would not want to.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q For example, is it possible that some</p> <p>15 reps would say, I'm too busy, I'm not going to</p> <p>16 take the time? That's possible, right?</p> <p>17 MR. MORRIS: Objection to form.</p> <p>18 THE WITNESS: I -- we hire ethical</p> <p>19 people. I can't imagine that would happen.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q Okay. But it's possible that someone</p> <p>22 could say, I'm just too busy, I'm not going to do</p> <p>23 it.</p> <p>24 A Well, anything could happen.</p>
<p>1 Q 58. Thank you.</p> <p>2 MS. SCULLION: Do we have that? That's</p> <p>3 okay.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q You have Exhibit 58 in front of you --</p> <p>6 A Yes.</p> <p>7 Q -- and you were asked about that, and</p> <p>8 you explained that's the form that reps were</p> <p>9 trained and told to use to report suspected</p> <p>10 diversion if they observed it in the field,</p> <p>11 correct?</p> <p>12 A Right.</p> <p>13 Q Is that correct?</p> <p>14 A Yes.</p> <p>15 Q Thank you. I didn't hear. I apologize.</p> <p>16 A Yes, sorry.</p> <p>17 Q But using that form, that would require</p> <p>18 reps to -- to see and recognize suspected</p> <p>19 diversion in the field, correct?</p> <p>20 A Correct.</p> <p>21 Q And it would then require reps to</p> <p>22 actually report the suspected diversion for that</p> <p>23 process to work, correct?</p> <p>24 A Correct.</p>	<p>1 MR. MORRIS: Objection to form.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q And it could also be that a rep might</p> <p>4 not want to report because some people just don't</p> <p>5 like turning somebody in.</p> <p>6 MR. MORRIS: Objection.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q Is that correct?</p> <p>9 MR. MORRIS: Objection to form.</p> <p>10 THE WITNESS: Well, it's part of their</p> <p>11 responsibility as a professional, ethical sales</p> <p>12 representative.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q Okay.</p> <p>15 A And they were trained on it.</p> <p>16 Q But that depended on them actually</p> <p>17 following the training --</p> <p>18 A Right.</p> <p>19 Q This system depended on them following</p> <p>20 the training, correct?</p> <p>21 A Right. But keep in mind also, just for</p> <p>22 clarity, their district manager also would be</p> <p>23 riding with them, and if he or she saw that, that</p> <p>24 that would be their responsibility to make sure</p>
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<p style="text-align: right;">Page 514</p> <p>1 that it did get reported.</p> <p>2 Q Okay. But again, the system depended on 3 someone actually seeing the pill mill, correct?</p> <p>4 MR. MORRIS: Objection to form.</p> <p>5 THE WITNESS: Correct.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q Okay. And do I understand correctly 8 that in terms of incentive compensation, if there 9 were a pill mill in a rep's territory that they 10 hadn't yet recognized, hadn't yet seen, hadn't yet 11 reported, the sale -- the sales generated by that 12 pill mill, those would be credited to that rep?</p> <p>13 A If the physician --</p> <p>14 MR. MORRIS: Objection. Foundation.</p> <p>15 THE WITNESS: -- was on their call plan.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q Okay. So if a physician is on the call 18 plan, and they haven't yet been reported as a pill 19 mill, the rep is going to be getting credit for 20 those sales, correct?</p> <p>21 A Correct.</p> <p>22 Q All right. And so is it possible, for 23 example, that reps might be concerned about their 24 compensation being negatively impacted if they</p>	<p style="text-align: right;">Page 516</p> <p>1 Q You don't think that a person from time 2 to time might have a conflict of interest when 3 money is on the line for them, when their 4 compensation is on the line?</p> <p>5 MR. MORRIS: Objection to form.</p> <p>6 THE WITNESS: I do believe that -- I do 7 believe that they would -- they would be more 8 concerned for their job than for making any kind 9 of money off of something like that.</p> <p>10 MS. SCULLION: Can we mark as exhibit -- 11 what are we on? 60? Thank you.</p> <p>12 (Romaine Exhibit No. 60 was marked 13 for identification.)</p> <p>14 BY MS. SCULLION:</p> <p>15 Q Let me hand you what's been marked as 16 Exhibit 60. This is an e-mail from -- it's 17 Bates-stamped ENDO_OPIOID_MDL-01861288. 18 And if you turn back, you can see this 19 is an -- an e-mail chain that starts on page 20 E852.3. It starts as an e-mail from Margaret 21 Takasu-Cronan to Paul Badley, Kevin Johnston, and 22 is cc'd to Ron Jackson.</p> <p>23 A Yes.</p> <p>24 Q The subject: "Physician removed from</p>
<p style="text-align: right;">Page 515</p> <p>1 were to report a suspected pill mill? Is that a 2 possibility?</p> <p>3 A Well, if that existed in their territory 4 or their geography and they weren't reporting it, 5 then that could be an issue that they could lose 6 their position if the district manager observed it 7 too and asked why they didn't report that.</p> <p>8 Q Sure.</p> <p>9 A And most of their compensation, as you 10 know, came from salary versus incentive comps. So 11 there's an incentive for them to be -- to be 12 ethical in the way they approached the business.</p> <p>13 Q Would you agree that for some people 14 there would be incentive to say, There's -- 15 there's a -- there's a physician generating a lot 16 of scripts in my territory, and I don't even have 17 to do any work to get them? That they may have an 18 incentive to say, I'm going to let that sit?</p> <p>19 MR. MORRIS: Objection to form.</p> <p>20 THE WITNESS: I -- I wouldn't agree with 21 that. I would think the people that we hired were 22 ethical and professional, and they wouldn't -- 23 they wouldn't act in that manner.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: right;">Page 517</p> <p>1 Opana ER call plan by Colleen Craven." Do you see 2 that?</p> <p>3 A Yes. Yes.</p> <p>4 Q And who was Margaret Takasu-Cronan?</p> <p>5 A She was a district manager.</p> <p>6 Q Does she sometimes go by the name Nana?</p> <p>7 A Yes.</p> <p>8 Q Okay. And if you turn to the first page 9 of Exhibit 60.</p> <p>10 A The -- the front page you're referring 11 to?</p> <p>12 Q Correct, the front page. Thank you. 13 852.1.</p> <p>14 This chain ends with Ms. Takasu-Cronan 15 saying to Mr. Jackson: "I reread the message that 16 Paul sent me, and I guess it makes sense if they 17 remove everything out, goals, IC, et cetera." And 18 she goes on to say: "I can see how someone could 19 play the system and not report an action right 20 away in order to not have the credit for their 21 Opana ER sales taken away for the entire semester, 22 especially if the physician was writing more than 23 what he/she is decided for. Thanks for your 24 follow-up regarding the situation, especially</p>

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<p>1 since PC is on the line for Jeremy."</p> <p>2 Do you see that?</p> <p>3 A Yes. I don't know what PC stands for.</p> <p>4 Q Okay. But -- so Ms. Takasu-Cronan,</p> <p>5 though, is saying that she could see how someone</p> <p>6 could play the system and not report a suspected</p> <p>7 pill mill right away in order to not have their</p> <p>8 credit for Opana ER sales taken away for the</p> <p>9 entire semester, correct?</p> <p>10 MR. MORRIS: Objection to form,</p> <p>11 speculation.</p> <p>12 THE WITNESS: It looks like her opinion.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q Yeah. And how long was</p> <p>15 Ms. Takasu-Cronan a district manager with -- with</p> <p>16 Endo?</p> <p>17 A I -- I don't recall.</p> <p>18 Q Was she there for -- as a district</p> <p>19 manager for most of your time as VP of sales?</p> <p>20 A I don't know if I -- I don't recall</p> <p>21 specifically. She was there for several years.</p> <p>22 Q She was an experienced district manager</p> <p>23 with Endo, correct?</p> <p>24 A Yes.</p>	<p>1 included on the -- on the call plan, and you said</p> <p>2 that these would have to be experienced</p> <p>3 physicians, correct?</p> <p>4 A Experienced in the therapeutic class</p> <p>5 that we were calling on for, yes.</p> <p>6 Q Right. But as we saw, the measure for</p> <p>7 an experienced physician was just whether they had</p> <p>8 written 48 -- for Opana ER, which is whether they</p> <p>9 had written 48 prescriptions for a long-acting</p> <p>10 opioid in the prior 12 months, correct?</p> <p>11 A Correct.</p> <p>12 Q And that was -- that was the threshold</p> <p>13 cutoff that a physician had to meet in order to be</p> <p>14 included on the list, correct?</p> <p>15 A Correct.</p> <p>16 Q Was there -- and there was no cutoff at</p> <p>17 the top, though. There was no number of</p> <p>18 prescriptions that was too much --</p> <p>19 A Not that I recall.</p> <p>20 Q -- for a physician to be included.</p> <p>21 A Not that I recall.</p> <p>22 Q All right. So, for example, as we saw</p> <p>23 with Dr. Herndon, someone could be the number one</p> <p>24 Opana prescriber in the nation and be included on</p>
<p style="text-align: center;">Page 519</p> <p>1 Q And an experienced manager -- district</p> <p>2 manager with Endo was saying she could see how</p> <p>3 someone would play the system. Correct?</p> <p>4 MR. MORRIS: Objection to form.</p> <p>5 THE WITNESS: That's what she's saying</p> <p>6 on her e-mail.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q Okay. So you agree it's possible that</p> <p>9 someone would try to play the system if they</p> <p>10 believed that it might impact their compensation</p> <p>11 to report a suspected pill mill, correct?</p> <p>12 MR. MORRIS: Objection to form and</p> <p>13 foundation.</p> <p>14 THE WITNESS: I can't say that. Again,</p> <p>15 I go back to I think -- you know, I think there</p> <p>16 would be more at risk if they did that versus the</p> <p>17 benefit they were to receive from it.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q But that -- that would be an analysis</p> <p>20 that they would have to make, correct?</p> <p>21 A That would be a decision they would</p> <p>22 make.</p> <p>23 Q Okay. And then Mr. Morris was asking</p> <p>24 you about the criteria for a physician to be</p>	<p style="text-align: center;">Page 521</p> <p>1 the list, even though it turned out they were a</p> <p>2 pill mill, right?</p> <p>3 MR. MORRIS: Objection -- objection to</p> <p>4 form.</p> <p>5 THE WITNESS: I -- I -- I can't speak to</p> <p>6 that.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q Okay. There's never any effort to -- to</p> <p>9 have a cutoff and say, If someone is prescribing</p> <p>10 too much, we're not going to have them on the</p> <p>11 list.</p> <p>12 A I don't recall that. I don't know.</p> <p>13 Q Okay.</p> <p>14 MS. SCULLION: And then can we pull up</p> <p>15 1207 again, please. Is that 1207, the script?</p> <p>16 MS. TYJER: 1203.</p> <p>17 MS. SCULLION: I'm so sorry. Thank you.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q Okay. So Mr. Morris brought you back to</p> <p>20 the -- the voicemail from June of 2012 --</p> <p>21 A Yes.</p> <p>22 Q -- in which you stated: "And if we have</p> <p>23 reps out there, I don't care who they are, that</p> <p>24 can't sell Opana ER clinically, they can't be with</p>

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<p>1 Endo. Okay?"</p> <p>2 And you said that what you meant there</p> <p>3 was were they educating the physician, were they</p> <p>4 presenting the balanced approach of benefits and</p> <p>5 risks of the product. That's what you said you</p> <p>6 meant by that, right?</p> <p>7 A Correct.</p> <p>8 Q But that's not what you said, right?</p> <p>9 You said that they can't sell --</p> <p>10 A Clinically.</p> <p>11 Q -- sell Opana ER clinically.</p> <p>12 A Right.</p> <p>13 Q Right?</p> <p>14 A Clinically is going through the entire</p> <p>15 master visual aid, full disclosure.</p> <p>16 Q And in the end, it was a matter of</p> <p>17 whether they could sell Opana ER in that setting,</p> <p>18 correct?</p> <p>19 A Clinically.</p> <p>20 Q Right.</p> <p>21 A Again, I go back to just in context that</p> <p>22 these were going out to region directors that I</p> <p>23 had worked very closely with for a long period of</p> <p>24 time who knew me very well.</p>	<p>1 Q Yes.</p> <p>2 A But how they received -- how they got to</p> <p>3 that point was making sure they could go in and</p> <p>4 provide full product information, provide</p> <p>5 resources to the office, provide data and</p> <p>6 information.</p> <p>7 Q But the goal itself, though, is measured</p> <p>8 by one thing, and that was the number of</p> <p>9 prescriptions written, correct?</p> <p>10 A Correct.</p> <p>11 MR. MORRIS: Objection. Form.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q Okay. And the incentive compensation</p> <p>14 you said was tied to whether the sales rep met or</p> <p>15 exceeded their sales goal, correct?</p> <p>16 A Correct.</p> <p>17 Q And again, so it's tying back the</p> <p>18 incentive compensation then to the number of</p> <p>19 prescriptions written by the physicians in their</p> <p>20 territory, correct?</p> <p>21 A Correct.</p> <p>22 Q Okay. Sorry. The sales reps, that they</p> <p>23 were calling on in their territory.</p> <p>24 A Right.</p>
<p style="text-align: center;">Page 523</p> <p>1 Q But as we discussed earlier, ultimately</p> <p>2 the salesperson's job was to sell the product to</p> <p>3 the customers, correct?</p> <p>4 A Educate and provide -- provide</p> <p>5 resources.</p> <p>6 Q Well, we discussed the fact that sales</p> <p>7 reps had sales goals set for them, correct?</p> <p>8 A Sure. Yes.</p> <p>9 Q And those sales goals were measured by</p> <p>10 the number of prescriptions, correct?</p> <p>11 A Correct.</p> <p>12 Q It wasn't measured by how educated your</p> <p>13 physicians were. In the end, it was measured by</p> <p>14 how many prescriptions got written by the</p> <p>15 physicians you called on.</p> <p>16 A That's how --</p> <p>17 MR. MORRIS: Objection to form.</p> <p>18 THE WITNESS: That's how it was</p> <p>19 measured.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q That's right, that's how it was</p> <p>22 measured. And --</p> <p>23 A How they -- just going back to full</p> <p>24 context.</p>	<p style="text-align: center;">Page 525</p> <p>1 Q And we also saw over the course of today</p> <p>2 again various contests that Endo put out there for</p> <p>3 the sales reps, and there again, the awards were</p> <p>4 based on number of prescriptions written, correct?</p> <p>5 A Correct.</p> <p>6 Q All right. And then again, whether they</p> <p>7 ultimately could even stay on as an Endo sales</p> <p>8 rep, ultimately was determined by whether all the</p> <p>9 efforts they were making in fact wound up</p> <p>10 generating prescriptions, correct?</p> <p>11 MR. MORRIS: Objection to form.</p> <p>12 THE WITNESS: As long as they were doing</p> <p>13 it in the right way.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q But in the end --</p> <p>16 A Ethical way.</p> <p>17 Q -- if they weren't generating</p> <p>18 prescriptions -- even if they're doing it the</p> <p>19 right way, if they're not generating</p> <p>20 prescriptions, they couldn't stay on as a sales</p> <p>21 rep, right?</p> <p>22 A Correct. But they also wouldn't stay on</p> <p>23 if they were not an ethical, well-trained</p> <p>24 representative.</p>

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<p>Page 526</p> <p>1 Q But even if they were an ethically, 2 well-trained representative and presenting the way 3 that they were trained, if in the end they weren't 4 generating prescriptions, they couldn't stay on as 5 a sales rep, right? That was the job.</p> <p>6 A They had to perform.</p> <p>7 Q Okay.</p> <p>8 A They had responsibilities.</p> <p>9 MS. SCULLION: Thank you. I have no 10 further questions for today.</p> <p>11 THE WITNESS: Okay.</p> <p>12 MR. MORRIS: Yes, except weren't you 13 going to read something?</p> <p>14 MS. SCULLION: Yes. So --</p> <p>15 MR. MORRIS: The -- the numbers.</p> <p>16 MS. SCULLION: I have them in my pocket.</p> <p>17 So for the record, here's the Bates 18 numbers for certain exhibits where the Bates 19 numbers were cut off.</p> <p>20 Exhibit 18 was ENDO_OPIOID_MDL-00684008 21 through 011.</p> <p>22 Exhibit 19 was ENDO_OPIOID_MDL-00686202 23 through zero -- 205. So 202 through 205.</p> <p>24 And Exhibit 24 was</p>	<p>Page 528</p> <p>1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER 2 The undersigned Certified Shorthand Reporter 3 does hereby certify: 4 That the foregoing proceeding was taken before 5 me at the time and place therein set forth, at 6 which time the witness was duly sworn; That the 7 testimony of the witness and all objections made 8 at the time of the examination were recorded 9 stenographically by me and were thereafter 10 transcribed, said transcript being a true and 11 correct copy of my shorthand notes thereof; That 12 the dismantling of the original transcript will 13 void the reporter's certificate. 14 In witness thereof, I have subscribed my name 15 this date: January 15, 2019.</p> <hr/> <p>16</p> <p>17</p> <p>18 LESLIE A. TODD, CSR, RPR 19 Certificate No. 5129 20 (The foregoing certification of 21 this transcript does not apply to any 22 reproduction of the same by any means, 23 unless under the direct control and/or 24 supervision of the certifying reporter.)</p>
<p>Page 527</p> <p>1 ENDO_DATA_OPIOID_MDL-0000021.</p> <p>2 MR. MORRIS: Okay. Now we're done.</p> <p>3 THE VIDEOGRAPHER: The time is 4 9:15 p.m., January 10th, 2019. Going off the 5 record, concluding the videotaped deposition. 6 (Whereupon, the deposition of 7 LARRY W. ROMAINE was concluded 8 at 9:15 p.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 529</p> <p>1 INSTRUCTIONS TO WITNESS 2 Please read your deposition over carefully and 3 make any necessary corrections. You should state 4 the reason in the appropriate space on the errata 5 sheet for any corrections that are made. 6 After doing so, please sign the errata sheet 7 and date it. 8 You are signing same subject to the changes 9 you have noted on the errata sheet, which will be 10 attached to your deposition. It is imperative 11 that you return the original errata sheet to the 12 depositing attorney within thirty (30) days of 13 receipt of the deposition transcript by you. If 14 you fail to do so, the deposition transcript may 15 be deemed to be accurate and may be used in court. 16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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1 ACKNOWLEDGMENT OF DEPONENT
2 I, _____, do hereby
3 certify that I have read the foregoing pages, and
4 that the same is a correct transcription of the
5 answers given by me to the questions therein
6 propounded, except for the corrections or changes
7 in form or substance, if any, noted in the
8 attached Errata Sheet.

10 _____
11 LARRY W. ROMAINE DATE
12 _____
13 _____

14 Subscribed and sworn to
15 before me this
16 _____ day of _____, 20 _____.
17 My commission expires: _____
18 _____

19 Notary Public
20 _____
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